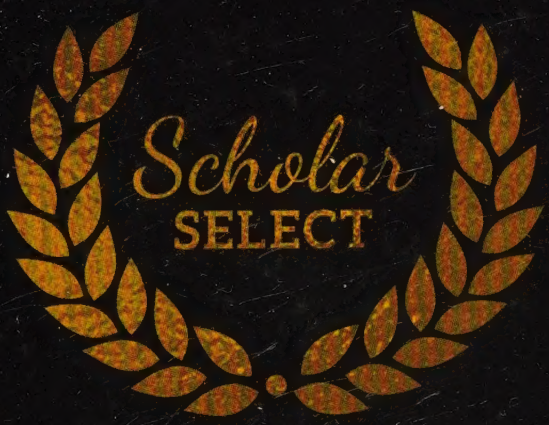
A History of the State of Oklahoma, Volume 1



LUTHER B. HILL

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A HISTORY

OF THE

STATE OF OKLAHOMA

BY

LUTHER B. HILL, A. B.

WITH THE ASSISTANCE OF LOCAL AUTHORITIES

VOLUME I

ILLUSTRATED

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PREFACE

In presenting "A History of the State of Oklahoma" the publishers feel that little explanation is necessary. The work describes the "evolution of a state," and has been prepared according to the original design that it should be a *standard, comprehensive* and *authentic reference* work. As a casual examination will show, the history is based upon the original sources, and authorities are quoted to prove practically every assertion made.

It should be stated that this is a pioneer work in this field; that no previous attempt has been successfully made to compile, on such an extensive scale, the historical information that pertains to Oklahoma and the Indian Territory. The material for such an undertaking does not exist within the State of Oklahoma, the records being available in the larger collections of older libraries and in the government archives. For the events of later years, much valuable information has been obtained from individuals in Oklahoma and elsewhere.

In the preparation of the history the author is particularly indebted to Hon. Sidney Clarke, of Oklahoma City, who besides furnishing a large amount of data in the nature of documents and manuscript, has also read the greater portion of the general history and has given the benefit of his wide personal knowledge in revising and correcting the historical material.

Among other local sources, to which acknowledgment should be made, the Oklahoma Historical Society should next be mentioned. Mr. W. P. Campbell, the custodian of the society's collection, offered the use of the material in his care, and was helpful in many ways.

Mr. J. B. Thoburn, who was engaged in the preparation of his school history of Oklahoma while this work was in progress, manifested a kindly interest in this undertaking. The four maps which are published in the first volume of the "History of the State of Oklahoma" were reproduced from the maps in Holcomb and Thoburn's School History.

Of other contributors, acknowledgment is made in the proper place to Mr. J. L. Brown and Mr. W. F. Harn, each of whom prepared an article on a phase of Oklahoma history on which they were well qualified to write. The author and publishers are indebted to many others in Oklahoma for interest and assistance in preparing the history.

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HISTORY OF THE STATE OF OKLAHOMA

CHAPTER I

INTRODUCTORY

Previous to November 16, 1907, forty-five states had entered the Union. More than two-thirds had been "admitted," joining the original thirteen with the consent and approval of those already within the confederation. At the time of admission, each of these states was a "western" state. When Kentucky came into the Union in 1792, it was on the frontier. Ohio, the first commonwealth to be taken from the Northwest Territory, in 1802 had a population that fringed the Ohio river and its tributaries, and most of its area was an unbroken wilderness. Indiana and Illinois were admitted while the frontiersmen's axes were making clearings in the forests for the first harvests of grain. Hardly a tithe of Missouri's great estate had been cultivated when the compromise bill stated the terms on which Missouri might relinquish its territorial government. In less than ten years after the beginning of the free-state movement, a state was created of Kansas. The first American colony was planted in Texas in 1821; in fifteen years that vast domain had become an independent republic, and ten years later surrendered nationality for a place among the American states. California had a territorial government hardly two years. In Utah, because of its peculiar politico-religious hierarchy, statehood was delayed a half century after its first settlement, and in this respect stands alone among the first forty-five states.

In all these states, Utah excepted, statehood followed close on the period of first settlement, so that many who broke the virgin sod and built the first schoolhouses, likewise helped to make the first state laws and held the first offices under them. Ohio, Illinois, Kansas and many others that might be named enjoyed state government for years before the first railroad was built within their borders. In this and many other respects, civilization had hardly made a beginning in the newly created commonwealths. Many of the early congressmen from the western states had to begin their journey to Washington on horseback or by stagecoach, and when they appeared at the national capital they were easily marked by their crude western manner and dress.

The thirty states added to the Union during the nineteenth century had each their peculiar history. But a history of

each, brought down only to the admission into the Union, would cover a brief period of pioneer growth and political development which would be largely a repetition of the history of other territories. Notwithstanding local points of difference, the formation of western states has proceeded along similar lines, so that an examination of the various statehood enabling acts would show few changes necessary to adapt the provisions for statehood to apply to any territories.

It remained for the twentieth century to evolve a state with a history so unique, with political and economic conditions so contrasted to those prevailing during the territorial period of the other forty-five commonwealths, that Oklahoma, in addition to its distinction as a Twentieth Century State, has had a political development consisting of differences rather than resemblances as regards its sister states, and is *sui generis* in all the essential features of its history. Indeed, this country that is now Oklahoma has long been a subject of misconception among the majority of people. Schoolboys' minds have lingered over that map in their geographies that included "Indian Territory," and pictured it as a great menagerie of Indian life, which white men would peril their lives to enter. And the information of the average adult was hardly better. To many the phrase, Indian Territory, was included in the same category, politically, with Washington or any other territory. To say that Indian Territory was "an unorganized territory" was very indefinite. Neither the geographies nor the encyclopedias nor the many-tomed histories afforded any satisfying knowledge about this peculiar region that was the home of the Indians but also the home of whites, and that was a territory and yet not a territory. It was so utterly unlike any other part of America that men ceased to try to understand its conditions and were content with the fraction of truth conveyed by the words "Indian Territory."

The State of Oklahoma is unique. Behind the act of President Roosevelt signing the statehood proclamation, over a hundred years have recorded events and developments which have woven their effects into the Oklahoma of today. All the presidents from Washington down have given their consideration to the problems which were solved with the admission of Oklahoma. Jefferson planned an Indian commonwealth here; a century later, when the evolution was complete, Roosevelt proclaimed the result. In a single generation Ohio was settled, passed through its territorial stage, and became a state. Oklahoma emerged from its political dependency only after three generations had passed since its first inhabitants had settled here. Not one is living who took an individual part in the great migration of the thirties.

Nearly twenty years before statehood, Oklahoma and Indian Territory had surpassed, in population, in degree of agricultural development, in general advancement, any other territory at the time of its admission, with the possible exception of Utah. When Oklahoma became a state, it contained a million and a half of population, its railroad mileage comprised several through state lines, its agricultural products were divided among all the crops of the country, its mineral resources of coal, oil, gas, marble, asphalt and other products, in their annual output, were exceeded in few other states of the Union; its business and commerce were equal in the character of stability and volume with that of many of the older states; while in education, culture, and the other standards by which civilization is judged, the average of Okla-

homa would vary in degree, but not suffer in comparison with the other forty-five states of the Union. Oklahomans have no frontier peculiarities such as distinguished, in the early years of our nation, the citizens of the new states. Moreover, Oklahoma was not carved from a new western country, but from the midst of a region that has been overspread by the institutions of American civilization for forty years. Years before, the wave of statehood had passed over all the surrounding region, leaving this territory to develop and maintain a corresponding progress while in a condition of political pupilage, and finally receive a belated reward of independent existence.

It is one of the prevalent fallacies, even among some Oklahomans, that the history of this state begins with the year 1889, when the Oklahoma country was opened to settlement. To try to understand the history of Oklahoma by studying the events since that year would be as arbitrary and as productive of sound historical understanding as to begin the history of the nation with the war for the overthrow of slavery. Each was an epochal event, and dated the beginning of a new era, but in a general consideration each stood midway in a vast scene where the background furnished the perspective by which to view the more immediate events. Oklahoma the state is the result of forces and influences that have been operative for a century. More than can be said to be true of any other state, Oklahoma is a product of evolution; was evolved from a train of causes and effects that make its history both tragic and extraordinary.

To say that the story of Oklahoma's evolution contains elements of tragedy may seem overstatement. Yet a close study of the past hundred years leaves a feeling akin to that with which one watches, in dramatic action, the struggles and plans of individuals finally made inoperative through a more dominating set of influences or more masterful personalities; however good the outcome, which we applaud, we express sorrow for the ineffectual battling of the weaker characters. Oklahoma's history presents such examples. Here, the statecraft and political wisdom of the nation's founders planned a community where barbarism would gradually redeem itself from the bondage of ignorance and superstition and emerge to equality with the American people. Jefferson looked forward to the time when the American Indian, with the blood of his race unmixed, would attain a degree of civilization and independence that would place him on a plane of political and industrial equality with his white neighbor. An Indian commonwealth was his dream. And yet all the sincerity of purpose and the political foresight of Jefferson and his immediate followers must be reckoned to have come to naught against the operation of stronger forces that in all their wisdom those statesmen could neither foresee nor forestall. The history of Oklahoma presents the remarkable spectacle of a political community being guided in one direction and being hurried by the tide of circumstances quite in a different course and to another goal.

The Indian Territory was the largest undertaking of local government ever attempted by the federal power, and to judge of the results by the plans and hopes expressed at the beginning, it must be called a colossal failure. Yet for years public opinion and government action were directed to the great philanthropy of maintaining the integrity of the Indian race behind the boundaries placed around it. Such barriers proved powerless to restrain

the greed of individual whites, the commercial enterprise that took profit from Indians, and the criminal element that found refuge with barbarism, until finally, one after another, these barriers were thrown down and the superior race rushed in to occupy and assimilate and create a state that is magnificent in its wealth and activities.

As prefacing the chapters that follow, a brief outline will indicate the history of Oklahoma through the various stages of its evolution to statehood.

It was of no material consequence that Coronado and his army of conquest marched into the wild and scantily populated region now included in Oklahoma. That was in the sixteenth century. The grass and flowers trampled beneath the feet of these adventurers revived and bloomed again after their passage, and the only local traces of that romantic event were the fragmentary traditions that survived among some of the Indians who had gazed in wonder at the European invaders. During the seventeenth century the Oklahoma landscape flourished in its wildness as it had in centuries before the discovery of America. Interesting and valuable though the researches may be by which the archeologist seeks, with partial success, to restore to human records the life of these pre-historic ages, the scope of this work must pass them by as affording no light on the evolution of Oklahoma.

A paragraph will suffice to describe another phase of history introducing the main narrative. At the beginning of the eighteenth century the French established a powerful colony at the mouth of the Mississippi, and by their rivalry with Spain extended their commercial enterprise along the courses of the western rivers tributary to the Mississippi. Throughout that century the trappers, hunters and traders in French employ explored and carried their occupation up the Red and Arkansas rivers. Among other things they accustomed the wild tribes then living about those rivers to their first intercourse with civilization, but the only permanent result of their presence here may be noted in the French names that, often in corrupted form, still cling to the streams and some of the conspicuous spots in eastern Oklahoma. Poteau, Verdigris, Cavanol and other similar names recall the French forest rovers who first exploited the resources of this country.

With that historic forced sale known as the "Louisiana Purchase" the real history of Oklahoma begins in substantial form. With that vast territory at its disposal, the United States soon found a solution of its Indian problem. The greater part of this domain was unpeopled, and to Jefferson and his associates it seemed a wise and permanent provision to set aside a portion of the purchase as a refuge of barbarism. In one of the following chapters the subject of boundaries has been discussed to show the successive causes which fixed the outside limits of this state, and, as next in order, the process of the division, among the principal Indian tribes, of the country that once constituted the "Indian Territory." All this was preliminary to the removal of the Indians, which is the central event in the history of Indian Territory in the first half of the last century. With the collocation of the Indian tribes in their own country, their history, so far as it can be said to have a national aspect, begins. Coincident with the great Indian migration, Congress passed the intercourse laws by which the relations of the Indians with their neighbors would be governed.

The status of the Indian country, established after the removal of the tribes, for a period of years continued unchanged except by the progress and improvement of the various nations. The antagonisms within each nation (the Cherokee in particular) were gradually composed, and besides an increasing degree of national prosperity, it may be noted that there were evidences of greater friendliness and even indications of political cohesion among the tribes that dwelt side by side in the Indian country. From 1846 until 1860 was an era of general peace and material prosperity.

The Civil war brought to a close the period of history of which the "Indian country" is the central theme. The war, in addition to dividing the Indians among themselves and desolating their country, brought in its train attendant results that gave a new direction to the destiny of the Indians as a peculiar people. Up to that time the old policy of isolating the Indians had been fairly well adhered to, not so much because it was a policy of recognized wisdom, but because no untoward circumstances had made a different policy imperative. But the close of the war brought the Indian problem once more into economic relations with the American people. Rather than maintain the old system under which the Indians were scattered over vast areas, which they only partly occupied and utilized, the government quickly determined that the territory once granted in perpetuity to the five civilized tribes was sufficient to accommodate nearly all the Indians in the United States. The result was that within a few years a complete rearrangement of boundaries was effected in the Indian Territory, and many tribes that had formerly lived in Kansas, Texas and elsewhere were removed to this country. But still the old theory of isolation, though modified, was respected, and in collocating the Indians it was believed that the ultimate outcome would be an Indian state.

But it was foreseen, even before this plan was put in execution, that certain forces were working steadily for the disintegration of the Indian country. While some men supported with enthusiasm the project to make the isolation of the Indians complete, others were directing their influence to the end that the Indian Territory might be utilized to the full extent of its resources as a productive territory in the American sense. Still others understood that the Indians stood at the parting of the ways. Either the federal power must enact and enforce stricter measures to preserve these people in their seclusion, or the Indians would have to surrender their segregate existence and accept their proper place in the nation of which they were a territorial part, at the same time assuming new responsibilities and opening their country to a freer intercourse with surrounding peoples.

"The forces of disintegration," which are successively reviewed in the third part of this history, were: 1. Those that developed as a result of the westward expansion of the American people. 2. The cattle industry, which, reaching enormous proportions soon after the war, extended its operations to the fertile ranges of Indian Territory and, partly under the protection of the Indians themselves, flourished until its power became a menace to its protectors and was regarded with increasing jealousy on the part of land-hungry white settlers who found themselves shut out from the enjoyment of a country where "cattle barons" grew rich. 3. The numerous class of whites known as "intruders," including both the cattlemen mentioned above and an increasing number of individuals who gained permission, in various ways, to live

among the Indians, and, by reason of their superior intelligence and enterprise, possessed themselves of a large part of the productive resources of the country and seemed likely to gain a dominating control in all tribal affairs. 4. The railroads, which, once having penetrated the forbidden land, brought civilized institutions and methods, and made inevitable the final absorption of the Indian country in the rest of the Union. 5. And finally, a reversal of policy on the part of the government itself, as a result of which the Indians were no longer to be treated with as a sovereign people, but, so far as consistent with previous guarantees, would be dealt with accordingly as a beneficent government might see fit.

The inevitable tendency of these forces, thus generalized, was an overthrow of the system of Indian isolation; that country could not remain an obstacle to American civilization, but must open its gateways to free commerce and intercourse with the rest of the nation, and its people had the alternative either to take advantage of the opportunities of a greater civilization or, continuing in their former condition, to permit a superior race to possess the country and establish its supremacy in government and all material affairs.

The rest of the story is familiar. The first prize sought by the invading whites was the "Oklahoma country," consisting of the lands ceded by the Creeks for the occupancy of friendly tribes. Instead of Indian Territory gradually filling up with an infiltration of whites, an organized invasion was started, and the more or less unsuccessful and Quixotic incursions of Payne and his associates were the superficial show of well laid plans that had their source in the higher spheres of political and business life. Congress finally yielded to the persistent pleadings of the "boomers," and in 1889 the heart of the old Indian Territory was given to the thousands who on an eventful day in April gathered to receive their share of the surplus lands that this nation has from time to time bestowed upon its citizens.

After the opening of Oklahoma, there followed the organization of a territorial government, and at different intervals, the opening of other lands to settlement. As a territory Oklahoma continued its existence seventeen years. In the meantime the five civilized tribes had experienced a complete transformation in methods of holding land, and the federal government had been successfully working to a final dissolution of all tribal governments. In part five, the history of this movement is told, and with the close of the principal work of the Dawes Commission, both the Indian Territory and Oklahoma were prepared for the final issue of statehood.

Beginning with the organization of Oklahoma Territory in 1890, the two territories lead a nominally separate existence for seventeen years. It is necessary to describe the working out of the peculiar problems of the eastern half of the state separately from the development and growth of Oklahoma Territory during these years. But many interests of the two territories were identical, and from the first there was a strong influence for a final union of the two territories. Statehood came to Oklahoma only after many years of waiting, and the history of the establishment of a state government requires a review of political and economic conditions from time to time during the past sixteen years. This history of Oklahoma, as elsewhere stated, comes to a close with the statehood movement. Its purpose is to trace the gradual evolution of an American state. In many ways Okla-

homa is the last fruit of American expansion, and has developed from the most peculiar conditions ever existent on any portion of American soil. Oklahoma as a state has a history which may be studied with profit by all who claim the state as a home and by those whose interest has at various times been attracted to this remarkable country of the southwest.

CHAPTER II

THE LOUISIANA PURCHASE

The history of the various transactions by which the territory of North America was exchanged by wholesale among the different world powers several times during the period of exploration and conquest in the new world needs only such reference in the history of Oklahoma as will preface and afford the proper setting for those events which actually concern this state. Oklahoma having once been territorially a part of the French and Spanish Louisiana, which came to our nation under the name of the "Louisiana Purchase," a brief account of that territory up to the purchase will introduce the more specific history of the "Indian country."

The title of France to the Mississippi valley, particularly the region in which we are interested, originated in the daring and ambitious explorations and schemes of empire-building of LaSalle, who of all the Frenchmen of his time has left the most enduring impress on American history. In 1684 he endeavored to found a colony at the mouth of the Mississippi, but missing his destination, built Fort St. Louis on the Texas coast. His enterprise was disastrous, and he himself perished at the hands of assassins while endeavoring to find his way to the Mississippi river and bring succor from the French settlements in Illinois. On his futile attempt the French based, in part, their claim to the region west of the Mississippi, and in sending an expedition from Mexico to thwart his colony the Spanish took the first step in the contest for this intermediate country that was not finally settled until the treaty between the United States and Mexico in 1848. However, the French confined their actual efforts at occupation to the mouth of the Mississippi. A settlement was effected in the vicinity of Mobile bay in 1699, and twenty years later New Orleans had become the principal town of the colony.

The French retained "La Louisiane" until 1763. Four years before, General Wolfe's victory on the Plains of Abraham at Quebec had broken French power in America, and the treaty of Paris, at the close of the Seven Years' war in Europe, closed the French era in the history of the new world. By that treaty all the country east of the Mississippi, except the Floridas, passed to England, and in turn, except Canada, after the American Revolution, became the new nation of the United States. But to the west of the Mississippi, in the treaty of 1763, the French ceded all their claims to Spain as reward for the latter's alliance during the Seven Years' war.[1]

From 1763 practically until the Louisiana Purchase, the western half of the Mississippi valley, including the present Okla-

[1] The words of the grant were: "His Most Christian Majesty cedes in entire possession, purely and simply, without exception, to his Catholic Majesty and his successors in perpetuity, all the country known under the name of Louisiana, as well as New Orleans and the island in which that place stands."

homa, was Spanish territory, and Spanish laws and civilization prevailed and long left their impress on the country about the mouth of the Mississippi. In the meantime Daniel Boone and other frontiersmen had piloted the American pioneers from the original colonies across the mountains to the Kentucky, Tennessee and Ohio country, and before the close of the century the Spanish on the west of the Mississippi were confronted by the determined front of the American colonists on the east bank. The demands of the Kentucky colonists for the free use of the river, including commercial privileges at the Spanish town of New Orleans, almost brought on war between America and Spain. The Jay treaty of 1795 was only a temporary stay to the American advance westward, and the continued presence of a foreign power on the other side of the river would have resulted in a conflict between the two civilizations. As it was, the Louisiana Purchase merely delayed the contest until it was involved in the Texas question; otherwise, a war of conquest against the Spanish territory of the southwest might have preceded the acquisition of the Oklahoma country instead of a peaceable bargain of sale.

Louisiana, at the time of its transfer to the United States, was not actually in the possession of the French—a fact that is not generally recognized by most persons who refer to "our purchase of Louisiana territory from France in 1803."[2] The inordinate ambitions of Napoleon, whose position as master of Europe was assured by the end of the eighteenth century, involved the recovery of the territory of Louisiana lost to France by the cession of 1763 and the reconquest of Santo Domingo, which had revolted against French rule under the leadership of Toussaint L'Ouverture. In exchange for an Italian kingdom the king of Spain signed away, at the treaty of San Idlefonso, October 1, 1800, the territory of Louisiana to Napoleon with the same limits it had had before 1763. The treaty was secret, and its provisions were not known for a certainty in America for nearly a year. In the meantime a French army proceeded to Santo Domingo. Following the conquest of that island, it was the intention to extend the French occupation to Louisiana and re-establish New France in western America. The army was beaten down by the genius of the negro Toussaint and the scourge of fever. Hard pressed by his enemies at home, and unable to continue a war in a distant island, Napoleon had to witness the complete collapse of his schemes for a western empire, and in the possession of Louisiana had a title that he could never reinforce by actual occupation. Furthermore, he feared that England's navy might, without obstacle, seize the territory and gain a vast addition to its growing world empire.[3]

[2] "Napoleon did not have possession of Louisiana when he sold it to the United States, or even, for that matter, when the ratifications of the treaty were exchanged at Washington." Channing, *The Jeffersonian System*, pp. 81, 82.

[3] De Marbois, one of the negotiators of the treaty effecting the Louisiana Purchase, in his *History of Louisiana* (1828), attributed to Napoleon these reasons for disposing of the territory: "I know the whole value of Louisiana, and I wish to repair the fault of the French negotiator who abandoned it in 1763. Some lines of treaty have restored it to me, and I have scarcely recovered when I must expect to lose it. But if it slips from me it will one day cost dearer to those who oblige me to deprive myself of it than to those to whom I wish to deliver it. The English have successively taken from France, Canada, Isle Royal, Newfoundland, Nova Scotia, and the richest parts of Asia. They are at work to agitate St. Domingo. They shall not have the Mississippi, which they covet. Louisiana is nothing in comparison with their acquisitions throughout the globe, and yet the jealousy which

This was the situation when Jefferson and his administration became factors in the disposition of this territory. The Mississippi settlers, already irritated by their contact with a Spanish government, were not less displeased when they learned that Louisiana had been turned over to the French. The Spanish authorities at New Orleans, in 1802, by again closing the port to American commerce, kindled indignation throughout the west, and Jefferson, whose political support was strongest among the Kentuckians, at once took measures to remove the dangers that threatened either political disruption of the west or an international war. The negotiations cannot be described in detail, however interesting the story is as a part of American history. Napoleon was willing to sell for a few million francs territory that he could not protect. Jefferson was convinced of the political wisdom, regardless of constitutional restrictions, of securing the port of New Orleans to the free use of American commerce. Negotiations were undertaken in Paris between Robert R. Livingston and James Monroe, the American representatives, and Marbois, the agent of Napoleon. For the sum of fifteen million dollars the western half of the most valuable river valley in the world was ceded to the United States, the treaty being dated April 30, 1803.[4] On the following November 30, Napoleon's agent, Laussat, received possession of the territory from the Spanish governor. For seventeen days only the nominal possession to the territory rested in France, and then, (Dec. 16, 1803), William C. C. Claiborne accepted it in turn under the dominion of the stars and stripes.[5]

The limits of the Louisiana Purchase were never definitely defined. By the treaty of 1800, Spain ceded to Napoleon "the colony or province of Louisiana, with the same extent it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other states." This clause was copied into the convention with the United States. What extent the purchase had neither the American embassadors knew, nor could they find out from the French. It remained for a subsequent treaty with Spain to define the western boundary as the Sabine and Red rivers. All of the present state of

the return of this colony under the French dominion causes them proves to me that they desire to get possession of it, and it is thus they will begin the war. They have twenty vessels in the Gulf of Mexico. They overrun those seas as sovereign, whilst our affairs in St. Domingo grow worse and worse since the death of LeClerc. The conquest of Louisiana would be easy if they only took the trouble of making a descent there. I have not a moment to lose in putting it out of their reach. I do not know whether they are not there. It is according to their practice, and were I in their place I would not have waited. I wish, if there is yet time for it, to take from them even the idea of ever possessing the colony. I think of ceding it to the United States. I can scarcely say that I cede it to them; for it is not yet in our possession. If I leave ever so little time to our enemies I shall only transmit an empty title to these republicans whose friendship I seek. They only ask of me one town [New Orleans] in Louisiana, but I already consider the whole colony as entirely lost, and it appears to me that in the hands of this growing republic it will be more useful to the policy and even to the commerce of France than if I attempt to retain it."

[4] After he signed the treaty, Livingston is reported to have said, as he took the hand of Marbois, "We have lived long, but this is the noblest work of our lives."

[5] During the brief period of French occupancy, a code of French laws was published for the government of Louisiana. Though it contained many features of provisions of the celebrated Code Napoleon, that system as such never did prevail as a basis for legal procedure, since the Code was not promulgated in France until March, 1804.

Oklahoma except the strip on the north of the Panhandle of Texas was bought in the memorable Louisiana Purchase.

Though the fact has no bearing on the subsequent history of Louisiana and the states into which the territory was divided, it is well to remember that Spain ceded the territory to Napoleon with the express stipulations that it should not be alienated to any other power, and that in case Napoleon himself did not occupy it, Louisiana should be returned to Spain. Morally, if not legally, therefore, Napoleon could not sell Louisiana to the United States. Had there existed, in 1803, an international court like the Hague tribunal, it is not unlikely that it would have annulled the whole transaction. The purchase of Louisiana not only was a breach of international etiquette, but also seriously strained the American constitution.

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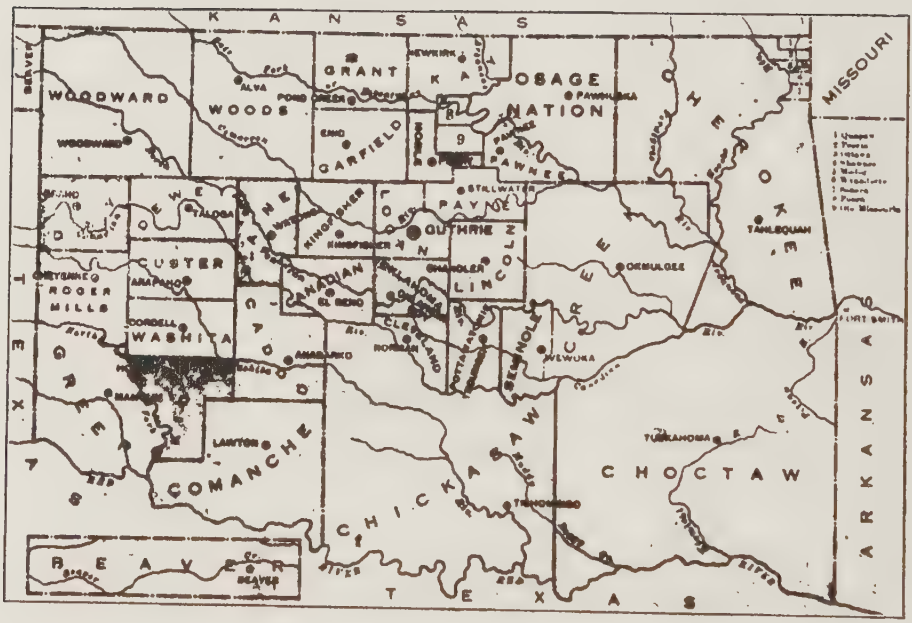

OKLAHOMA AND INDIAN TERRITORIES BEFORE STATEHOOD.

CHAPTER III

BOUNDARIES OF THE STATE OF OKLAHOMA.

The history of the formation of Oklahoma's boundaries is unlike the history of the limits of any other state. More than in the case of any other state, perhaps, can it be said the boundaries are the result of events and circumstances which, but for this one reason, would hardly be mentioned in the history of Oklahoma. States and territories, one after another, were carved out from the southwestern country, and then what was left over, being the home of the Indians and generally known as "Indian country," was finally named the "Indian Territory." In more respects than one, Oklahoma has been a "remnant" in the history of the nation.

The first boundary line of Oklahoma to be fixed approximately as it remains to-day was that on the south and west. Oklahoma being in the southwestern corner of the Louisiana Purchase, it followed that its southwestern limit would be the line dividing the Spanish possessions from the territory of the United States. Though the western extent of Louisiana was claimed to be marked by the Rio Grande, this claim was nullified by the treaty between Spain and the United States, of February 19, 1819, when the boundary between the United States and the Spanish possessions was defined, in part, as beginning at the mouth of the Sabine river and continuing along the western bank of that river to the 32d parallel; "thence by a line due north to the degree of latitude where it strikes . . . . the Red river; then following the course of the Rio Roxo [Red river] westward to the degree of longitude 100° west from London . . . . ; then crossing the said Red river and running thence by a line due north to the river Arkansas," etc.

The division of the territory acquired from France in 1803 began with the act of Congress, March 26, 1804, when the Louisiana Purchase was divided and that portion lying north of the 33d degree of latitude was erected into the "District of Louisiana," including therein all the purchase north of the present state of Louisiana. No other division of this immense "district" was needed for some years. However, on March 3, 1805, the name was changed to "Territory of Louisiana," and on June 4, 1812, Congress gave a territorial form of government under the name of the Territory of Missouri.

At the time of the Louisiana Purchase, settlement above New Orleans was limited to the west bank of the Mississippi, but by the close of the decade had extended over a strip fifteen or twenty miles west of the river. The population was sufficient to justify the organization of a territorial government, there being over twenty thousand people in the territory of Missouri at the end of 1812.

The issue of slavery was involved in the next subdivision of this territory. Louisiana, the first state to be admitted from the Louisiana Purchase, had entered the Union in 1812 a slave state as a matter of course. But when Missouri territory asked for ad-

mission, its peculiar geographical position, lying both north and south of the generally recognized slavery line, made it an object of dispute between the jealous guardians and opponents of slavery. As a result of the famous Missouri Compromise, passed in March, 1820, and which closed the dispute of three years' duration over the status of the territory, a new boundary was formed in our nation's geography, the parallel of 36° 30′ thereafter being synonymous with the "Missouri Compromise line."

The line had already come into use when the territory of Arkansas was organized from the southern part of Missouri territory in March, 1819. Except for a short distance[1] at the eastern end, that parallel formed the northern boundary of the new territory of Arkansas from the Mississippi river west to the 100th meridian, which at that time was the "western territorial boundary."[2]

For five years all that part of the present state of Oklahoma lying south of the southern boundary of Beaver county (extended to meet the southern line of Missouri), formed the western half of the territory of Arkansas, and was under the jurisdiction of the Arkansas territorial government. However, there was at the time no white population within this region, and the existence of a territorial government here preceding the time it was set aside as an Indian territory had few if any definite results.[3]

One other matter may be noticed in con-

[1] The territory of Arkansas was organized from the southern part of Missouri territory by act of March 2, 1819, with the following limits: "All that part of the territory of Missouri which lies south of a line, beginning on the Mississippi river, at thirty-six degrees north latitude, running thence west to the river St. Francois; and thence up the same to thirty-six degrees thirty minutes north latitude; and thence west to the western territorial boundary line."

[2] The boundaries of Missouri on the south and west, as defined in the statehood act of March 6, 1820, were: South, the 36° 30′ latitude "extended west to a point where it intersects a line drawn due south from the junction of the Kansas river with the Missouri." North of the Missouri river the western boundary was extended, in 1836, to the Missouri river.

[3] Under the title of "The Common Law in Oklahoma," Henry E. Asp discussed various phases of this question before the Oklahoma Bar Association in 1902. In seeking a historical basis for the existence of the common law within the Indian Territory at the time of the original opening in 1889 and previous to the territorial organic act, Mr. Asp considers the successive governments that had jurisdiction over that part of the Louisiana Purchase called Oklahoma. With the formation of the District of Louisiana in 1804, a temporary government was provided by the following section: "The executive power now vested in the governor of the Indian Territory shall extend to and be exercised in the said District of Louisiana. The governor and judges of the Indian Territory shall have the power to establish in the said District of Louisiana inferior courts and prescribe their jurisdiction and duties, to make all laws which they may deem conducive to the good government of the inhabitants thereof."

After being attached to Indiana for governmental, legislative and judicial purposes, a separate territorial government was provided when the territory of Missouri was organized in 1812. Section 16 of the organic act provided: "That the laws and regulations in force in the territory of Louisiana at the commencement of this act and not inconsistent with the provisions thereof shall continue in force until altered, modified, or repealed by the general assembly."

On January 19, 1816, the legislature of the territory of Missouri enacted a statute extending in force the common law of England (vol. 1, Territorial Laws Missouri, page 436). The statute is as follows:

"The common law of England, which is of a general nature, and all statutes made by the British parliament in aid of or to supply the defects of the said common law, made prior to the fourth year of James the First, and of a general nature, and not local to that kingdom, which said common law and statutes are not contrary to the laws of this territory, and not repugnant to, nor inconsistent with the constitution and laws of the United States shall be the rule of decision in this territory, until altered or repealed by the legislature, any law, usage, or custom to the con-

nection with boundaries. The greater part of the present Oklahoma lying south of 36° 30′, it became, by the Missouri Compromise, legitimate slave territory. If the question of statehood for the Indian Territory had arisen before the Civil war, no opposition could have been raised to its entering the Union as a slave state.

Within five years after the organization of the territory of Arkansas, its western boundary was drawn in, so that instead of extending to the extreme western limit of the Louisiana Purchase, Arkansas extended to a line commencing at a point forty miles west of the southwest corner of the state of Missouri, and thence south to the right bank of the Red river.[4] A map of Arkansas at that time would have shown its western boundary as a north and south line drawn through a point slightly east of the present city of Muskogee.

Later, in the treaty with the Western

trary notwithstanding, provided, however, that none of the British statutes respecting crimes and punishments shall be in force in this territory, nor shall any person be punished by the common law, where the laws and statutes of this territory have made provisions on the subject, but where the laws and statutes of the United States and this territory have not made provisions for the punishment of offenses, the several courts may proceed to punish for such offenses, provided, the punishment shall in no case be other than fine and imprisonment, and the term of imprisonment shall not exceed two months; and the fine shall not exceed one hundred dollars."

On March 2, 1819, the Congress of the United States passed an act entitled "An act establishing a separate territorial government in the southern part of the territory of Missouri" (3d U. S. Statutes at Large, page 493). Section 1 of the act provides:

"That from and after the 4th day of July next, all that part of the territory of Missouri which lies south of a line, beginning on the Mississippi river at 36 degrees north latitude, running thence west to the river St. Francois, thence up the same to 36 degrees and 30 minutes north latitude, and thence west to the Western Territorial boundary line, shall for the purpose of a territorial government constitute a separate territory and be called the Arkansas territory."

Section 5 of the act provides: "That the legislative power shall, until the organization of the general assembly hereinafter provided for, be vested in the governor and the judges of the superior court of the territory who shall have power to pass any law for the administration of justice in said territory which shall not be repugnant to this act or inconsistent to the constitution of the United States. Provided, that whenever the general assembly shall be organized all the legislative power of the territory shall be vested in, and be exercised by, the said general assembly."

Section 10 of the act provides: "That all the laws which shall be in force in the territory of Missouri on the 4th day of July next, not inconsistent with the provisions of this act, and which shall be applicable to the territory of Arkansas shall be, and continue in force in the latter territory until modified or repealed by the legislative authority thereof."

Despite the subsequent contraction of Arkansas' limits to those that now mark the state's boundaries, Mr. Asp held that the rules of common law, once extended over the Oklahoma country continued in force there by virtue of the fact that no act of Congress had ever withdrawn or repealed their operation. In conclusion, he says:

"Under the rule announced by the supreme court of the United States, and held by numerous courts, the common law remained in force in the territory of Oklahoma as promulgated by the statutes of Missouri January 19, 1816, and did not recede when the territorial boundaries of the territory of Missouri contracted. The fact that the country now embraced in the territory of Oklahoma was for years an Indian country does not militate against the fact that the common law did remain in force as affecting the private contracts entered into in this territory. The law as stated in Pyatt against Powell by the court of appeals, and as announced by the chief justice of this territory, in McKennon against Winn, are correct statements of law based upon wrong reasons."

[4] Act of May 26, 1824 (Stat. at Large, Vol. IV, 40), provides: "That the western boundary line of the territory of Arkansas shall begin at a point forty miles west of the southwest corner of the state of Missouri and run south to the right bank of the Red river, and thence down the river, and with the Mexican boundary, to the line of Louisiana."

Cherokee, May 6, 1828, the western boundary of Arkansas was thus defined: "A line shall be run, commencing on Red river, at the point where the Eastern Choctaw line strikes said river, and run due north with said line to the river Arkansas, thence in a direct line to the southwest corner of Missouri."

When Arkansas was admitted into the Union, by act of June 15, 1836[5], the western boundary of the state was fixed by the line described in the first article of the treaty of May 26, 1828, which is the present western boundary of Arkansas.[6]

Thus by 1828 Missouri and Arkansas had been formed from the Louisiana Purchase with practically the limits they have to-day. To the west of these lay a vast country wholly unorganized. Being far beyond the advance of white civilization, there was as yet no necessity to provide it with government, and except so far as the common law declared in force while this country was a part of the Missouri or Arkansas territory continued effective, this region was beyond the influence of government and civilization and only nominally under the power of the federal government. Practically this country was already designed for the home of the Indian tribes, but, as related elsewhere, it was not until the act of June 30, 1834, that Congress declared that all that part of the United States lying west of the Mississippi river and not within the states of Missouri, Louisiana, or the territory of Arkansas, should be taken, for the purposes of the act, to be "Indian Country."

The definite limits of the Indian country were, on the east, the west lines of Missouri and Arkansas, while on the west and south the Mexican possessions still formed the barrier of American sovereignty, the Red river and the 100th meridian separating the two national dominions. With the exception of the points involved in the Greer county case, to be noticed later, the boundary lines thus drawn by the treaty of 1819 (already referred to) have continued without change.

In 1836 Texas declared its independence of Mexico, and in 1845 was admitted to the Union. It then comprised parts of territory now included in New Mexico, Oklahoma, Kansas, Colorado and Wyoming. In 1850

[5] 5th U. S. Stat. at Large, p. 50.

[6] The provisions in the treaty of May, 1828, by which the forty-mile strip on the western side of Arkansas was cut off and given to the Cherokees, were vigorously opposed in the United States senate by Benton of Missouri ("Thirty Years' View," Chap. XXXVI). He says: "The inexpediency of the treaty was in the question of crippling and mutilating Arkansas, reducing her to the class of weak states, and that against all the reasons which had induced Congress, four years before, to add on twelve thousand square miles to her domain. . . . I felt this wrong to Arkansas doubly. . . . I argued, as I thought, conclusively, but in vain. The treaty was largely ratified, and by a strong slave-holding vote, notwithstanding it curtailed slave territory, and made soil free which was then slave. . . . The reason of the southern members for promoting this amputation of Arkansas in favor of the Cherokees was simply to assist in inducing their removal, by adding the best part of Arkansas with its salt springs, to the ample millions of acres west of that territory already granted to them. . . . I have said that the amputated part of Arkansas was an organized part of the territory, divided into counties, settled and cultivated. Now, what became of these inhabitants?—their property?—and possessions? They were bought out by the federal government! A simultaneous act was passed, making a donation of 320 acres of land (within the remaining part of Arkansas), to each head of a family who would retire from the amputated part; and subjecting all to military removal that did not retire. It was done. They all withdrew. Three hundred and twenty acres of land in front to attract them, and regular troops in the rear to push them, presented a motive power adequate to its object; and twelve thousand square miles of slave territory was evacuated by its inhabitants, with their flocks and herds and slaves; and not a word was said about it; and the event has been forgotten."

it released to the control of the United States all its territory north of latitude 36° 30′ and west of the 103d meridian as far south as latitude 32°. The history of this transaction has direct bearing on Oklahoma history.

The government of Texas, after becoming independent, claimed all the country between the water courses of the Red and Rio Grande rivers, including a large part of what is now New Mexico. By the treaty of 1848 between Mexico and the United States, New Mexico was a part of the vast territory ceded to the latter government. In the same year the legislature of Texas (now a state) passed an act extending its jurisdiction over New Mexico, but when a Texas judge tried to hold court in the territory he came into direct conflict with the federal authorities. In surrendering her nationality Texas likewise gave over the customs and revenues which a sovereign nation enjoys. But all the loans of the republic had been based upon these receipts as security, and, of course, the bondholders at once applied to the United States for satisfaction. The question whether the federal government should be responsible for the obligations of the old republic was in the end combined with the boundary dispute, and the two were settled by one of the famous compromises of American history.

It is a proof of the dominating power of the slavery issue during that time that these two subjects should be involved and be settled incidentally to a compromise that afforded the last breathing spell for the two sections of the nation then hurrying on to the inevitable conflict. The great battle had reached its height at Washington early in 1850, and under the leadership of Henry Clay the opposing factions were brought together on the compromise measures which were enacted into law the following September. The essential features of the compromise were as follows: The admission of California as a free state. The organization of two new territories—Utah, including Nevada, and New Mexico, including Arizona, without the Wilmot Proviso; that is, with no conditions prohibiting slavery. The slave trade was abolished in the District of Columbia, and, in return, a stringent law was passed for the arrest of fugitive slaves in northern states. Involved in the settlement was the provision that Texas should be paid $10,000,000 in return for surrendering her claim to the territory east of the upper Rio Grande. A contemporary writer, advocating the adoption of the compromise as a distinct gain for the anti-slavery cause, said: "The native inhabitants of this region [east of the upper Rio Grande] cherish sentiments of bitter hostility toward the Texans, who now threaten to extend their disputed dominion over them by force . . . . Slavery cannot be introduced into this region, which is too elevated, too barren, and situated too far north to recompense any other than free labor; but if the laws of Texas are extended over it, it becomes a portion of a slave state, and whatever political power it may subsequently obtain will be lost to the cause of freedom. Both humanity and policy require, therefore, that the north should submit to any reasonable sacrifice for the purpose of severing this region from Texas and adding it to the free territory of New Mexico. Now, by the terms of the compromise the sacrifice required is a very trifling one. Texas is willing to sell her claim to the disputed region for what she calls a fair price . . . and the United States are bound in equity to cause the creditors of Texas to be paid a sum at least equal to this price, because the revenue from the customs of Texas, which is now paid into our

national treasury, was formally and solemnly pledged to these creditors as a security for their debt. . . . The south makes no objection to this arrangement; Texas, as we have said, consents to it, and the north ought to be satisfied with it, because, first, it will preserve the national faith, and, secondly, it will rescue a large tract of country from the dominion of the slave state, and by joining it to New Mexico add it to the 'area of freedom.'"

Thus it came about that the boundaries of the Texas Panhandle were fixed by this compromise of 1850, leaving the peculiar configuration of state limits that has since remained one of the most striking features in the mapped outline of the southwest. By this agreement between Texas and Congress it was provided that Texas' "boundary on the north shall commence at the point at which the meridian of 100° west from Greenwich is intersected by the parallel of 36° 30′ north latitude, and shall run from said point due west to the meridian of 103° west."[7]

With the compromise of 1850 provisions were made for the division of practically all the territory acquired from Mexico into states or territories. This included all the area west of the crest of the Rocky mountains, and New Mexico's northern boundary, as fixed by that act, extended along the 38th degree of north latitude from the 103d meridian west "to the summit of the Sierra Madre." So that, in 1850, the "Indian country" comprised all the country between the states of Missouri and Arkansas on the east and the Rocky mountains and Texas on the west, while its southern boundaries were the Red river and the north line of the Panhandle and New Mexico.[8]

The compromise of 1850 caused no abatement of the energy with which the south and the north struggled for control of territory and extension of political influence. California had come into the Union a free state, the other territory acquired from Mexico was not likely to be ready for statehood for some time to come, and the only portion of the United States that was still subject to settlement and organization was the western half of the Louisiana Purchase, most of which was free territory according to the terms of the Missouri Compromise.

A contest was inevitable before any of this territory could be organized or come into the Union. The terms of the Missouri Compromise were already the object of hostility from the south. In order that this

[7] By act of June 5, 1858, Congress directed the survey of this boundary, which should begin "at the point where the 100th degree of longitude west from Greenwich crosses Red river, and running thence north to the point where said 100th degree intersects the parallel of 36° 30′ north latitude, and thence west," etc.

This survey was executed just prior to the Civil war, in 1858-60. Most of the boundary on the 100th meridian was surveyed and marked by the Indian contract surveyors, A. H. Jones, and H. M. C. Brown. Portions of a letter written by these surveyors late in the year 1858 to the commissioner of Indian affairs will prove of interest in this history. "We are now encamped," they wrote (their camp was called "Camp Radziminski"), "within sight of Major Van Dorn's command on Otter creek, west of the Wichita mountains, and about 2 miles east of the point on this creek that Captain Marcy reports to be the 100th meridian. . . . Since our arrival the results of our observations are of such a character as to safely notify the department that the 100th meridian, west longitude, is at least 40 miles farther westward than any line hitherto reported or delineated upon the topographical maps."

The north line of the Panhandle was marked by John H. Clark in 1860. The government subsequently directed a re-marking of different lines of the Panhandle boundary, Preston's survey having been made as late as 1900. In 1892 Henry S. Pritchett, under the direction of the Texas government, fixed the location of the 100th meridian in its intersection with the Red river. This determination was for use in the famous lawsuit known as the Greer county case.

antagonism of sectional interests might not jeopardize the economic welfare of the country west of Iowa, then called the Platte country, Stephen A. Douglas sought what he deemed to be a happy solution of the vexed problem. He applied the theory of "squatter sovereignty" as the rule by which to determine the status of this western country when it should apply for statehood. The settlers in the territories should decide for themselves whether slavery should or should not exist. Not Congress, but the "squatters" were to be the supreme authority on the great question.

It was on this theory that he prepared the famous Kansas-Nebraska bill. The fate of this theory and the national political results of the bill are not pertinent to this discussion, but some of the provisions of the measure determined what eventually were to be the northern boundaries of the state of Oklahoma.

The Nebraska bill, as originally introduced in the first session of the Thirty-third Congress, provided that all that part of the territory of the United States included between the summit of the Rocky mountains on the west, the states of Missouri and Iowa on the east, the 43° 30′ north latitude on the north, and the territory of New Mexico and the parallel of 36° 30′ on the south, should be organized into a temporary government. This, it will be noticed, would have drawn the south line of the proposed territory due west from the southwest corner of Missouri, along the old compromise line, and along the northern border of the Texas Panhandle, to the New Mexico line. This was a logical division of the territory. That portion south of the line would have corresponded in area with what had originally constituted the west half of the Arkansas territory, as already described. Concerning the Indian inhabitants the original bill said: "But nothing in this act is to be construed to impair the rights of persons or property now pertaining to the Indians in that territory, so long as such rights shall remain unextinguished by treaty . . . or to include any territory which, by treaty with any Indian tribe, is not, without their consent, to be included within the territorial limits or jurisdiction of any state or territory."

This last provision was inserted to safeguard the elaborate privileges guaranteed under some of the early Indian treaties.[9] The treaties stood in the way of the adoption of the bill as first reported. On January 23, 1854, Senator Douglas, in presenting the report of the committee on territories,[10] said that the attention of the committee had been called to the fact that the boundary of the proposed territory of Nebraska, as in the original bill, would divide the Cherokee country, "whereas by taking the parallel of 37 degrees north latitude as the southern boundary, the line would run between the Cherokee and Osage. We have concluded, therefore, to vary the southern boundary in order not to divide the Cherokee nation."

Thus because the United States had agreed to "possess the Cherokees forever" of some land extending half a degree north of the Missouri Compromise line, it became necessary that the southern boundary of Kansas should follow the 37th parallel of latitude, and in this manner was the northern boundary of Indian Territory fixed.

[8] Strictly speaking, the part of Texas relinquished to the United States by the compromise of 1850 did not become a portion of the Indian country, since, by the terms of that compromise, its title was vested in the United States and therefore "public domain."

[9] See Chapter IV.

[10] Congressional Globe, 33d Cong., 1st Sess., p. 221.

But one of the results of the action of the committee on territories was probably overlooked at the time, and, if not, was probably considered unimportant. A strip of land over one hundred and fifty miles long and nearly forty wide, situated beyond the limits of settlement, was of relative unimportance in those days. In fact little attention was paid to the oversight, if such it was, for many years, until it became necessary to provide a legal status for the people of the country. Between the southern boundary of Kansas and the north line of the Texas Panhandle lay a strip of land that was part of the Texas cession of 1850. By that cession it belonged to the United States. The government did not (as it might easily have done in the act of 1854 just referred to) provide for the annexation of this strip to the Indian Territory. Hence, through lack of formal recognition, this strip became "No Man's Land," with a very interesting and dramatic history all of its own.[11]

[11] There is some reason to infer that the framers of the Kansas-Nebraska bill were unconscious of the omission of this strip as a piece of country entirely separate from and unconnected with contiguous territory. The act of 1834, setting aside Indian country, had declared all territory of the United States west of Missouri and Arkansas subject to the provisions made for the Indians. When the strip north of Texas was not included within the Kansas-Nebraska territory, it is a reasonable inference that it was not distinguished from the rest of the country to the south of the parallel of 37°. On the official maps of the general land office the strip was designated as a part of Indian Territory until 1869. This was done without express authority. It was through lack of positive enactment in regard to this land that its disposition became a matter of interpretation. Had the exact status of the strip been decided twenty years before it was, before the advance of the land-seekers into this region, it is not improbable that the claim of the Cherokee Indians to this piece of out-of-the-way country would have been confirmed without objection.

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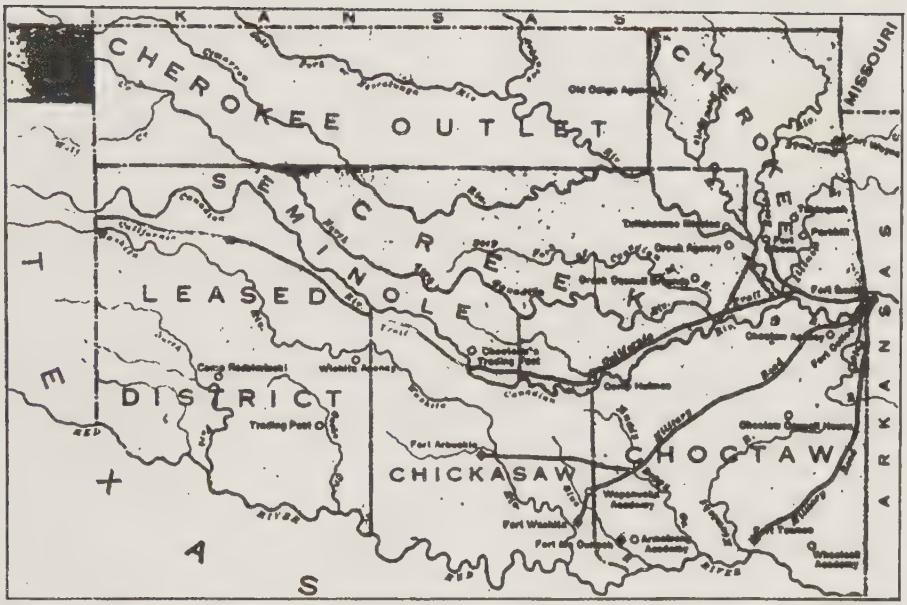

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CHAPTER IV

ORIGIN OF THE INDIAN COUNTRY.

Writing shortly after the Purchase of Louisiana in 1803, Thomas Jefferson expressed his opinion as to the disposition of the acquired territory. "Above all, the best use we can make of the country for some time to come will be to give establishments in it to the Indians of the east side of the Mississippi in exchange for their present country. . . . When we shall be full on this [east] side, we can lay off a range of states on the western bank, from the head to the mouth, and so range after range, advancing compactly as we multiply."

Jefferson, as the leader of the political party that became dominant with his first election and continued to control the general government for several decades, has been given credit for many of the policies inaugurated by the nation during that period. There is no question that he exerted a powerful influence in molding the public opinion of the time and directing political action. Hence it is natural to attribute to him the beginning of many policies that were features of the national administration during the first half century, and his writings and public addresses are often quoted for this purpose. Whether he originated the paternalistic system of government control of the Indians is probably of not sufficient importance to inquire here, but his public expressions on this subject are of the highest authority and interest since, while he was president, the trans-Mississippi country was designated as the proper abode for the concentration of the Indian peoples.[1]

Jefferson's ideas were embodied practically in the act of Congress, March 26, 1804, by which the Louisiana Purchase was divided, the president being authorized to stipulate with any Indian tribes owning lands east of the Mississippi river for an exchange of their lands and removal to designated lands west of the river. So far as can be learned, this was the first official declaration that part of the Louisiana territory should be used as Indian country. Within a few years the plan was given practical operation.

Why the Indians were eventually con-

[1] In his second inaugural address (1805), Jefferson reminded the country of its duty to the Indians: "The aboriginal inhabitants of these countries I have regarded with the commiseration their history inspires. Endowed with the faculties and rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores; without power to divert or habits to contend against it, they have been overwhelmed by the current, or driven before it; now reduced within limits too narrow for the hunter's state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence and to prepare them in time for that state of society which to bodily comforts adds the improvement of the mind and morals. We have therefore liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity, and they are covered with the ægis of the law against aggressors from among ourselves."

centrated mainly along the courses of the Arkansas and Red rivers is a question largely of academic interest, but it comes as a natural query why the first tribes of the east, in exchanging their land, selected new hunting grounds largely in the country that is now Oklahoma.

Before the plan for removing the Indians was set in operation, an expedition had been made that resulted in a vast addition to the world's accurate knowledge of the Louisiana country in general, and the reports of the explorers were no doubt eagerly studied by Jefferson and his associates and afforded them many suggestions for their future guidance in disposing of this great public domain.

While the intrepid Lewis and Clark set off, under Jefferson's instructions, to explore the Missouri river to its source, another equally brave explorer, Zebulon M. Pike, started from the Missouri to visit the regions along the Osage and Kansas rivers and explore to the sources of the Arkansas, at the same time treating with the Indians along those rivers. The narrative of the expedition, largely told by Lieutenant Pike himself, is one of the classics of western American history.[2] His explorations of the Louisiana country took place largely during 1806, and by the summer of the following year his official reports were in the hands of the administration at Washington. One cannot read the following paragraphs of his description of the country along the Arkansas without thinking there is some connection between the explorer's suggestions and the recommendation of President Jefferson, in 1808, that the Cherokee Indians look for suitable homes along the Arkansas river. The information placed before the world by Pike's expedition had some definite influence on the formation of the "Indian country." Jefferson and others would have pondered well over these lines: "The borders of the Arkansas river may be termed the paradise (terrestrial) of our territories, for the wandering savages. Of all the countries ever visited by the footsteps of civilized man, there never was one probably that produced game in greater abundance, and we know that the manners and morals of the erratic nations are such . . . as never to give them a numerous population; and I believe that there are buffalo, elk, and deer sufficient on the banks of the Arkansas alone, if used without waste, to feed all the savages in the United States territory one century."

Then, after describing the barren plains of the west, and predicting that they might "become in time equally celebrated as the sandy deserts of Africa," he concludes that "from these immense prairies may arise one great advantage to the United States, viz: The restriction of our population to some certain limits, and thereby a continuation of the union. Our citizens being so prone to rambling and extending themselves, on the frontiers, will, through necessity, be constrained to limit their extent on the west to the borders of the Missouri and Mississippi, while they leave the prairies incapable of cultivation to the wandering and uncivilized aborigines of the country."[3]

An important step in the concentration

[2] "An account of Expeditions to the Sources of the Mississippi and through the Western Parts of Louisiana," etc., published at Philadelphia, in 1810.

[3] When Pike's expedition reached the Arkansas river, at a point in Kansas where the Kansas and Arkansas rivers are separated by a narrow watershed, Lieutenant James B. Wilkinson was detached with a small company to descend and explore the Arkansas to its mouth, while Pike, with the main party, proceeded west to the sources of the river. Wilkinson parted from Pike on October 28, 1806, and in canoes began the voyage down the river. Wilkinson was not the first white

of the Indians in the west was the Osage cession of 1808. It had the double result of opening up a large area of the country west of the Mississippi for white settlement, and at the same time providing a free domain where the government, in pursuing its Indian policy, might locate those tribes that gave up their homes in the east. Pierre Choteau, acting under the instructions of Governor Lewis of Louisiana territory, called together the Osage chiefs at Fort Clark (in southwest Missouri), and by treaty dated November 10, 1808, extinguished Indian title to all the Osage land between the Arkansas river on the south to the Missouri river on the north; and from the Mississippi west to a line running due north and south from Fort Clark to the Arkansas. By this cession the entire country between the Missouri and Arkansas westward to within thirty or forty miles of the west line of the present states of Missouri and Arkansas was opened to occupation and disposal by the government. Within this ceded area the government granted the first Indian reservation in exchange for lands east of the Mississippi.

The first movement of Indians beyond the

man to explore the regions of the Arkansas in what is now Oklahoma, but his journal report of his voyage (dated at New Orleans, April 6, 1807) is the first reliable description of the region.

He was more than a month in descending the river to the point where it enters Oklahoma. His journal commentaries on the country and inhabitants along the river within the limits of Oklahoma are as follows:

"The night of the 2d of December was intensely cold, but hunger obliged me to proceed, and we fortunately reached the mouth of the Neskalonska [Salt Fork of the Arkansas] river without accident or injury. . . . The Neskalonska is about 120 yards wide, shoal and narrow at its mouth. . . . On this stream the Grand and Little Osages form their temporary fall hunting camps and take their peltries. . . .

"On the 10th [December] about noon, I passed the Grand Saline, or the Newsewketonga [Cimarron river], which is a reddish color, though its water is very clear. About two days' march up this river you find the prairie grass on the S. W. side incrusted with salt, and on the N. E. bank, fresh water springs, and lakes abounding with fish. This salt the Arkansaw Osages obtain by scraping it off the prairie with a turkey's wing into a wooden trencher. The river does not derive its name from its saline properties, but the quantities that may always be found on its banks, and is at all seasons of the year potable.

"On the 20th, in the afternoon, we passed another saline with water equally as red as the Newsewketonga, and more strongly impregnated with salt.

"After encountering every hardship to which a voyage is subject in small canoes, at so inclement a season of the year, I arrived on the 23d inst. [December] in a storm of hail and snow, at the wintering camp of Cashesegra, or 'Big Track,' chief of the Osages, who resides on Verdigrise river. On the following day I gave him your talk . . . he had been informed the United States intended erecting factories on the Osage river, and that he was anxious to have one near to his own village. . . . A factory with a garrison of troops stationed there would answer the double purpose of keeping in order those Indians, who are the most desperate and profligate part of the whole nation, and more fully impressing them with an idea of our consequence. . . . It also would tend to preserve harmony among the Chactaws, Creeks, Cherokees and Osages of the three different villages, who are in a constant state of warfare. . . .

"On the 27th I passed the mouths of the Verdigrise and Grand rivers, the former being about a hundred, and the latter one hundred and thirty yards wide; those streams enter within a quarter of a mile of each other. . . .

"About fifty-eight or sixty miles up the Verdigrise is situate the Osage village. . . . Though Cashesegra be the nominal leader, Clermont, or the *Builder of Towns*, is the greatest warrior, and most influential man, and is now more firmly attached to the interests of the Americans than any other chief of the nation. He is the lawful sovereign of the Grand Osages, but his hereditary right was usurped by Pahuska, or White Hair, whilst Clermont was an infant. White Hair, in fact, is a chief of Choteau's creating, as well as Cashesegra, and neither have the power or disposition to restrain their young men from the perpetration of an improper act, fearing lest they should render themselves unpopular.

"On the 29th I passed a fall near seven feet perpendicular [Webber's, opposite mouth of Elk

Mississippi with which the government was officially concerned was the Cherokee migration of 1809. In the preceding year the deputies from the lower towns of the Cherokees had made known their wish to continue the hunter life, and since game was scarce and their lands restricted on the east side of the Mississippi, had indicated their desire to move west. Accordingly the president, in January, 1809, recommended that an exploring party of these Indians should reconnoitre the country on the waters of the Arkansas and White rivers and find an unoccupied country suited to their needs.

"And whereas the Cherokees . . . did explore the country on the west side of the Mississippi and made choice of the country on the Arkansas and White rivers, and settled themselves down on United States' lands, to which no other tribe of Indians have any just claim,[4] and had notified the president of this fact and their desire to negotiate a treaty for exchange of lands,"—in consequence of this preamble, the representatives of the Cherokees entered into the treaty of July 8, 1817, by which they ceded to the United States an area on the east of the Mississippi for a grant of equal area on the Arkansas and White rivers.[5] As a result of this treaty, in which it is recited that a part of the Cherokees desire to continue their residence in their old homes, while another part desired to continue the hunter life, there were established the two subdivisions of Cherokees, known as the Eastern and the Western

creek], and at evening was visited by a scout from an Osage war party, and received from them information of a man by the name of McFarlane, who had been trapping up the Pottoe. We passed about noon this day, the mouths of the river des Illinois, which enters on the N. E. side, and the Canadian river, which puts in from the S. W. The latter river is the main branch of the Arkansaw, and is equally as large.

"On the 31st I passed the mouth of the Pottoe," and thus his narrative, so far as it pertains to the Oklahoma country, closes.

In summarizing the results of his expedition, Pike has this to say about the Osages of the Arkansaw:

Osage Indians on the Arkansas in 1806.

"The Osage Indians appear to have migrated from the north and west, and from their speaking the same language with the Kans, Otos, Missouries, and Mahaws, together with the great similarity of manners, morals and customs, there is left no room to doubt but that they were originally the same nation. . . . The Osage nation is divided into three villages. . . . the Grand Osage, the Little Osage and those of the Arkansaw. The Little Osage separated from the Big Osage about one hundred years since. . . . The Arkansaw schism was effected by Mr. Pierre Choteau, ten or twelve years ago. [Having the privilege of trade on the Arkansas, and his rival, Manuel Lisa, having similar privileges on the Osage, Choteau had induced a portion of the Osages to remove to the Arkansas, and 'thereby nearly rendered abortive the exclusive privilege of his rival.'] . . . Every reason induces a belief that the other villages are much more likely to join the Arkansaw (which is daily becoming more powerful) than the latter to return to its ancient residence. For the Grand and Little Osage are both obliged to proceed to the Arkansaw every winter, to kill the summer's provision; also all the nations with whom they are now at war are situated to the westward of that river, and from whence they get all their horses. Those inducements are such that the young, the bold, and the enterprising are daily emigrating from the Osage village to the Arkansaw village. In fact, it would become the interest of our government to encourage that emigration, if they intend to encourage the extension of the settlement of Upper Louisiana; but if, on the contrary (their true policy), every method should be taken to prevent their elongation from the Missouri." (Appendix to Part II.)

[4] Cherokee treaty, 1817.

[5] The boundaries were: "Which [the land] is to commence on the north side of the Arkansas river, at the mouth of Point Remove or Bndwell's Old Place; thence, by a straight line, northwardly, to strike Chataunga mountain, or the hill first above Shield's Ferry on White river, running up and between said rivers for complement, the banks of which rivers to be the lines . . . and all citizens of the United States, except Mrs. P. Lovely, who is to remain where she lives during life, removed from within the bounds as above described."

Cherokees. Although geographically separated, the Cherokees were treated as a unit in the distribution of annuities and other relations, and all property owned by them was treated as common property.[6]

The country granted to the Cherokees by the treaty of 1817 was in the present state of Arkansas, included between the Arkansas and White rivers as two boundaries, and on the east by the line running from near the present town of Morrillton in Conway county northeastwardly to the site of Batesville. The Cherokees claimed that the west boundary of their cession began at Fort Smith on the Arkansas and ran parallel with the eastern line to the White river. Such a line would intersect the Osage boundary fixed in 1808. And in passing through the Osage territory in order to reach the western hunting grounds, the Cherokees also came into collision with the Osages. Troubles ensued almost from the beginning of the Cherokee removal.[7]

The western line of the Cherokee country was finally surveyed, in 1825, running from Table Rock Bluff above Fort Smith to the mouth of Little North Fork of White river In the same year, by a treaty dated June 2, 1825, the Great and Little Osage tribes relinquished to the United States all their

[6] In 1819, they were estimated at 15,000 in number. By a treaty made in 1819, the formal census was dispensed with (which had been required by the treaty of 1817), and for the purpose of distribution it was assumed that one-third had moved west, and that two-thirds were yet remaining east of the Mississippi river. Upon the basis of this estimate of numbers, in lieu of a census, annuities were distributed until the year 1835.

Thomas Nuttall, who traveled along the Arkansas in 1819, gave some valuable historical and descriptive notes on the Cherokee settlements through which he passed. After passing the boundary line at Point Remove, he came to the first Cherokee village in "the Galley hills." "Here the Cherokees had a settlement of about a dozen families, who, in the construction and furniture of their houses, and in the management of their farms, imitate the whites, and appeared to be progressing toward civilization, were it not for their baneful attachment to whiskey."

"Along either bank the lands are . . . pretty thickly scattered with the cabins and farms of the Cherokees, this being the land allotted to them by Congress, in exchange for others in the Mississippi territory, where the principal part of the nation still remain. . . . The number who have now emigrated hither are about 1,500." ("A Journal of Travels into the Arkansa Territory during the year 1819. With occasional observations on the manners of the Aborigines. By Thomas Nuttall, F. L. S., etc., Philadelphia, 1821.")

[7] "The unsettled limit of their claim in this country has been the means of producing some dissatisfaction, and exciting their jealousy against the agents of the government. One of their principal chiefs had said that rather than suffer any embarrassment and uncertainty he would proceed across the Red river, and petition land from the Spaniards. [Texas was then Spanish territory.] The Cherokees, with their present civilized habits, industry and augmenting population, would prove a dangerous enemy to the frontiers of the Arkansa Territory. As they have explicitly given up the lands which they possessed in the Mississippi Territory, in exchange for those which they have chosen here, there can be no reason why they should not immediately be confirmed, so as to preclude the visits of land speculators, which excite their jealousy."—Nuttall's Journal, p. 124.

"The arrival of the Cherokees in this country did not fail, as might have been foreseen, to excite the jealousy of the Osages, within whose former territory they had now taken up their residence. Major Lovely, the first agent appointed to reside among the Cherokees of the Arkansa, on his arrival, held a council with the Osages at the falls of the Verdigris, and about sixty miles distant from their village. Some quarrel, however, about two years ago arising between the two nations, the Osages waylaid 12 or 14 of the Cherokees and killed them. On this occasion the Cherokees collected together in considerable numbers, and ascended the river to take revenge upon the Osages, who fled at their approach, losing about ten of their men, who either fell in the retreat, or, becoming prisoners, were reserved for a more cruel destiny. The Cherokees, now forgetting the claims of civilization, fell upon the old and decrepit, upon the women and innocent children, and by their own account destroyed not less than 90 individuals, and carried away a number of prisoners."—Ibid, pp. 135-6.

lands lying within the state of Missouri and territory of Arkansas and also all lands west of this state and territory except a reservation fifty miles wide situated in what is now southern Kansas.[8]

Between the Cherokee country and the old Osage boundary line as established by the treaty of Fort Clark lay a triangular strip of country that, since it was not assigned to any Indian tribe, was claimed to be open for settlement. But for white people to occupy this country to the west of them would shut off the Cherokees from an outlet to the hunting grounds of the west.[9] The Cherokees, it seems, contended strenuously for this free access to the west from their first occupation of the Arkansas country. In this we see in another form the

[8] The reservation was bounded as follows: "Beginning at a point due east of White Hair's village, and twenty-five miles west of the western boundary line of the state of Missouri, fronting on a north and south line, so as to leave ten miles north and forty miles south of the point of beginning, and extending west with the width of fifty miles to the western boundary of the lands hereby ceded and relinquished by said tribes or nations [i. e., to a line drawn from the head sources of the Kansas southwardly through the Rock Saline.]

Osage Settlements in 1819.

Nuttall, in his travels up the Arkansas in 1819, gave the following description of the situation of the Osage settlement and its inhabitants: "If the confluence of the Verdigris, Arkansa and Grand rivers shall ever become of importance as a settlement, which the great and irresistible tide of western emigration promises, a town will probably be founded here, at the junction of these streams; and this obstruction in the navigation of the Verdigris, as well as the rapids of the Grand river, will afford good and convenient situations for mills, a matter of no small importance in the list of civilized comforts. From the Verdigris to St. Louis there is an Osage trace, which reduces the distance of those two places to about 300 miles. . . . The low hills contiguous to the falls of this river, and on which there exist several aboriginal mounds, were chosen by the Cherokees and Osages to hold their council, and to form a treaty of reciprocal amity as neighbors. This first friendly interview with the Cherokees was soon after broken through by jealousy, and accompanied on both sides with the most barbarous revenge. Scarcely any nation of Indians have encountered more enemies than the Osages; still, they flatter themselves by saying that they are seated in the middle of the world and, although surrounded by so many enemies, they have ever maintained their usual population, and their country. From conversations with the traders, it appeared that they would not be unwilling to dispose of more of their lands, provided that the government of the United States would enter into a stipulation not to settle it with the aborigines, whom they have now much greater reason to fear than the whites. The limit of their last cession proceeds in a northeast direction from the falls of the Verdigris, and enters the line which was run from Fire prairie, on the Missouri, to Frog bayou, about 60 miles from the Arkansa. . . .

"The first village of the Osages lies about 60 miles from the mouth of the Verdigris, and is said to contain 700 or 800 men and their families. About 60 miles further, on the Osage river, is situated the village of the chief called White Hair. . . .

"The Osages at this time entertained a considerable jealousy of the whites, in consequence of the emigration of the Cherokees to their frontiers; they considered it as a step of policy in the government to overawe them, and intended to act in concert with the establishment of the garrison. . . ."—(p. 172, fol.)

[9] "A number of families were now about to settle, or, rather, take provisionary possession of the land purchased from the Osages, situated along the banks of the Arkansa, from Frog bayou to the falls of the Verdigris, a tract in which is embraced a great body of superior alluvial land. But, to their disappointment, an order recently arrived, instructing the agent of Indian affairs to put the Cherokees in possession of the Osage purchase, and to remove them from the south side of the river. It appeared, from what I could learn, that the Osages, purposely deceived by the interpreter, at the instigation of the Shoutous [Choteaus], had hatched up a treaty without the actual authority of the chiefs, so that in the present state of things a war betwixt the Cherokees and the Osages is almost inevitable, unless the latter relinquish the banks of the Arkansa, as Messrs. Shoutou wish them. The Osages, in a recent council, said they would have no objection to dispose of their lands, provided the whites only were allowed to settle upon them."—Nuttall's Journal, p. 215.

main cause of the alleged incompatibility between the Indians and the whites. The restrictions of state or territorial government and the settled occupations of white men constrained the Indians in the exercise of all their nomadic habits and customs. That such constraint should not be imposed and that a country should be set aside for the Indians to dwell and work out their own destiny was the policy adopted by the government early in the nineteenth century and continued practically without change until the close of the Civil war.[10]

A deputation of Cherokees went to Washington to protest against their confinement within the limits of white man's government. In the negotiations that followed may be found the practical origin of Indian Territory as a country entirely separate from state and territorial jurisdiction and subject only to federal regulations. Although the Indian deputies in Washington were not clothed with plenipotentiary powers, the secretary of war, as a final expedient to settle existing difficulties, offered the chiefs who were present seven million acres of land in exchange for the lands that they then owned on the Arkansas (something over four million acres). Furthermore, in order to avoid the imposition of any local government that might conflict with the Indians, the secretary also proposed that the western boundary of Arkansas (as it existed then) should be moved east forty miles, and that the Cherokees should be settled on the strip thus taken from Arkansas. The negotiations finally resulted in the signing of the Cherokee treaty of May 6, 1828, which in many respects is the most interesting of all such agreements considered in this history.

It opens with the usual expression of the desire upon the part of the United States to secure the welfare and promote the contentment of their Indian wards, by giving them "*a permanent* home, which . . . shall remain theirs forever—a home that shall never in all future time be embarrassed by having extended around it the lines, or placed over it the jurisdiction of a state or territory, nor be pressed upon by the extension in any way of any of the limits of any existing territory or state." After referring to the difficulties of the tribe in their reservation within the territory of Arkansas (as assigned by the treaty of 1817) and promising them a new country beyond the jurisdiction of a territory or state, the treaty defines the west boundary of Arkansas and then proceeds to lay off the limits of the Cherokee Nation to the west of that line.[11]

The government having agreed to remove

[10] The policy of concentrating all the Indians in one region was opposed even then by arguments that seem to have uncovered some of the vital defects of the plan. Said Nuttall, in 1819:

"It is now also the intention of the United States government to bring together, as much as possible, the savages beyond the frontier, and thus to render them, in all probability, belligerent to each other, and to the civilized settlements which they border. To strengthen the hands of an enemy by conceding to them positions favorable to their designs, must certainly be far removed from prudence and good policy. To have left the aborigines on their ancient sites, rendered venerable by the endearments and attachments of patriotism, and surrounded by a condensed population of the whites, must either have held out to them the necessity of adopting civilization, or, at all events, have most effectually checked them from committing depredations. Bridled by this restraint, there would have been no necessity for establishing among them an expensive military agency, and coercing them by terror."—Nuttall's Journal, p. 160.

[11] "The United States agree to possess the Cherokees, and to guarantee it to them forever, . . . of seven millions of acres of land, to be bounded as follows, viz.: Commencing at that point on Arkansas river where the Eastern Choctaw boundary line strikes said river, and running thence with the western line of Arkansas . . . to the southwest corner of Missouri, and thence

from this new reservation all white settlers, placing them on the east side of the new western boundary of Arkansas, the Cherokees soon began moving to their home. By the treaty a small military reservation about Fort Gibson had been defined, the post itself having been established four years before. Probably because the treaty of 1828 had not been made by duly accredited representatives of the Cherokees, and also because a part of the Creek Nation had settled within the Cherokee territory, a new treaty was made at Fort Gibson on February 14, 1833. The limits of the Cherokee Nation as defined by this treaty were practically the same as marked the nation until the obliteration of Indian boundaries by the state government.[12] (See map.)

In transferring the lands of the Indian country to the various civilized tribes, the most solemn guarantees were given, so that, if a pledge of a government at one period of national history is inviolate through subsequent periods, no action of the govern-

with the western boundary line of Missouri till it crosses the waters of Neasho, generally called Grand river, thence due west to a point from which a due south course will strike the present northwest corner of Arkansas territory, thence continuing due south, on and with the present western boundary line of the territory to the main branch of Arkansas river, thence down said river to its junction with the Canadian river, and thence up and between the said rivers, Arkansas and Canadian, to a point at which a line running north and south from river to river will give the aforesaid seven million acres. In addition to the seven millions of acres thus provided for . . . the United States further guarantees to the Cherokee nation a perpetual outlet, west, and a free and unmolested use of all the country lying west of the western boundary of the above described limits, and as far west as the sovereignty of the United States and their right of soil extend."

[12] The old western boundary of Arkansas (above referred to) was the starting point, it being forty miles west of the present Arkansas line, and for about twenty miles the Cherokee boundary followed this old territorial line. Until the recent obliteration of the Indian boundaries, as a result of statehood, this twenty miles of boundary between the Creeks and Cherokees remained as a definite reminder of the time when Arkansas territory projected forty miles within the present Oklahoma. The description in article 1 of the treaty follows:

"The United States agree to possess the Cherokees, and to guarantee it to them forever, and that guarantee is hereby pledged of seven millions of acres of land, to be bounded as follows, viz.: Beginning at a point on the old western territorial line of Arkansas territory, being twenty-five miles north from the point, where the territorial line crosses Arkansas river—thence running from said north point south on the said territorial line to the place where said territorial line crosses the Verdigris river—thence down said Verdigris river to the Arkansas river—thence down said Arkansas to a point where a stone is placed opposite to the east or lower bank of Grand river at its junction with the Arkansas—thence running south, forty-four degrees west, one mile—thence in a straight line to a point four miles northerly from the mouth of the North Fork of the Canadian—thence along the said four miles line to the Canadian—thence down the Canadian to the Arkansas—thence down the Arkansas to that point on the Arkansas, where the eastern Choctaw boundary strikes said river; and running thence with the western line of Arkansas territory, as now defined, to the southwest corner of Missouri—thence along the western Missouri line to the land assigned the Senecas—thence on the south line of the Senecas to Grand river—thence up said Grand river, as far as the south line of the Osage reservation, extended if necessary—thence up and between said south Osage line, extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south, from said Osage line to said due west line, will make seven millions of acres within the whole described boundaries. In addition to the seven millions of acres of land thus provided for and bounded, the United States further guarantee to the Cherokee nation a perpetual outlet west and a free and unmolested use of all the country lying west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend. Provided, however, that if the saline, or salt plain, on the great western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees—and letters patent shall be issued by the United States as soon as practicable for the land hereby guaranteed."

ment in proceeding with the disposal and partition of Indian lands has been too slow or taken with too much care and safeguarding of guaranteed rights. A treaty with the Cherokee on December 29, 1835, supplements the preceding treaties. In it the United States covenants that the ceded lands should "in no future time, without their consent, be included within the territorial limits or jurisdiction of any state or territory." By this treaty additional lands were given the Cherokees "situated between the west line of the state of Missouri and the Osage reservation, beginning at the southeast corner of the same and runs north along the east line of the Osage lands fifty miles to the northeast corner thereof; and thence east to the west line of the state of Missouri; thence with said line south fifty miles; thence west to place of beginning." This tract, containing about 800,000 acres, was the Cherokee Neutral Lands in Kansas.

Having carried the history of the Cherokees along to the point where their permanent home in the Indian country has been assigned, we now return a few years and trace the movements of the other Indian people whose successive assignments of territory are important events in the story of the formation of Indian Territory.

As the Osage cession of 1808 had opened the way for the introduction of a part of the Cherokees, likewise the Quapaws, who inhabited the country south of the Arkansas, by a treaty of 1818, restricted their original territory by ceding to the United States most of the country on the south side of the Arkansas from the Mississippi river west to a line running through the sources of the Kiamichi, a branch of Red river, and the Poteau, a branch of the Arkansas. The Indian title having been extinguished, settlers entered what they considered public land, and within a year after the treaty had partly occupied the country as far west as the line defined in the treaty (some distance west of the present boundary of Arkansas). Some of the pioneers even continued beyond the west line fixed by the Quapaw session, but when they were removed in 1819 [13] they were allowed to settle without restriction on the lands east of the Kiamichi-Poteau line. This seemed to confirm the belief of the settlers that the government intended to dispose of the Quapaw cession as public domain. A disappointment was in store for them when it was announced that the government proposed to set aside the lands relinquished by the Quapaws as a home for the Choctaw Nation.[14]

The movement of the Choctaws to the

[13] "May 16 [1819]. This morning I left Fort Smith with Major Bradford and a company of soldiers, in order to proceed across the wilderness to the confluence of the Kiamesha and Red river. The object of the Major was to execute the orders of government, by removing all the resident whites out of the territory of the Osages; the Kiamesha river being now chosen as the line of demarkation . . . 22d). The people appeared but ill prepared for the unpleasant official intelligence of their ejectment. Some who had cleared considerable farms were thus unexpectedly thrust out into the inhospitable wilderness. I could not but sympathize with their complaints, notwithstanding the justice and propriety of the requisition."—Nuttall's Journal.

Choctaw Treaty of 1820.

[14] "By a recent treaty, effected through the influence of General Jackson, the Choctaws are now about to relinquish the east side of the Mississippi river, and to exchange their lands for others in the territory of Arkansa, situated betwixt Arkansa and Red rivers, and extending from the Quapaw reservation to the Pottoe. In consequence of this singular but impolitic measure of crowding the aborigines together, so as to render them inevitably hostile to each other, and to the frontier which they border, several counties of the Arkansa territory will have to be evacuated by their white inhabitants, who will thus be ruined in their circumstances, at the very period when the general survey of the lands had inspired them with the

Arkansas river country had begun about 1800, and in the report already referred to the number of Choctaws in the Louisiana country is estimated at five hundred. In the war of 1812 the Choctaws and Chickasaws were allies of the United States.[15] With the rapid settlement of Mississippi and Alabama and adjacent territory during the early years of the century these tribes were unable to hold their own against the white men. The establishment of state governments over their country made their situation worse, since they, "being ignorant of the language and laws of the white man, can not understand nor obey them." It seemed impracticable to govern two widely different races by the same system of laws.

As a result, a treaty was effected, October 18, 1820, between the government and the Mississippi Choctaws, by which a country larger than many of the eastern states was granted to the Indians in exchange for their lands east of the Mississippi. The grant comprised all that part of the present state of Oklahoma between the main Canadian and Red rivers, and from the Texas line on the west to an eastern limit that extended from the mouth of Little river, in Arkansas, to the old Cherokee boundary at Point Remove on the Arkansas. A large portion of western Arkansas, south of the Arkansas river, was thus included in the Choctaw reservation.[16]

When the eastern boundary from Red river to Point Remove was surveyed in 1821, the surveyor reported that 375 white families had settled west of this line and east of the Kiamichi-Poteau line. The Choctaws who were already resident in the country refused to move into that part of their country west of the Kiamichi and Poteau rivers. The situation promised serious difficulties between the whites and red men. The contest ended with a compromise, embodied in the treaty with the Choctaws of January 20, 1825, when the Choctaws ceded to the government, from the land described in the treaty of 1820, all that portion "lying east of a line beginning on the Arkansas, one hundred paces east of Fort Smith, and running thence due south to Red river." Thus was defined the southern half of the western boundary of Arkansas, and finally adopted for that purpose in 1836. By this

confident expectation of obtaining a permanent and legal settlement.''—Nuttall's Journal, p. 236.

[15] ''The Chickasaws and Choctaws were fearfully decimated by wars with the Europeans and other tribes. During the early explorations it is said that they had 15,000 warriors, while in 1720 the two tribes could muster less than 1,000 fighting men. The Choctaws allied themselves to the French in the war against the Natchez, whom the Chickasaws aided. The two latter tribes were badly beaten. From 1540 to the establishment of the American republic the Chickasaws and Choctaws were almost constantly at war. As progress followed the star of empire westward, the rights of these Indians, as they understood them, were more and more circumscribed. In 1765 the Chickasaws made their first general treaty with General Oglethorpe of Georgia, and in 1786, after the colonies had gained their independence, both the Chickasaws and Choctaws made a treaty at Hopewell and were guaranteed peaceable possession of their lands. From the date of this treaty the Choctaws and Chickasaws have kept faith with the federal government. The Chickasaws, in the treaty of 1834, boast 'that they have ever been faithful and friendly to the people of this country; that they have never raised the tomahawk to shed the blood of an American.''—R. W. McAdams, in Extra Census Bulletin, above mentioned.

[16] The words of the treaty define the grant as, ''. . . a tract of country west of Mississippi river, situate between the Arkansas and Red rivers, and bounded as follows: Beginning on the Arkansas river, where the lower boundary line of the Cherokees strikes the same; thence up the Arkansas to the Canadian fork, and up the same to its source; thence due south to the Red river; thence down Red river, three miles below the mouth of Little river, which empties into Red river on the north side; thence a direct line to the beginning.''

treaty the Choctaws ceded a large triangular strip on the east side of their reservation, and in return the United States agreed to remove all such white settlers as were located within the Choctaw limits.[17]

As a result of this treaty, and the Cherokee treaty of 1828 (already described), the two Indian nations that had first been assigned lands west of the Mississippi were removed beyond the jurisdiction of a territorial government. The western line of Arkansas having been fixed, no state or territorial lines any longer shut in these nations, and the most solemn guarantee of the government assured them that no such lines ever should be extended around them. The history of the movements by which these two Indian nations were segregated is the history of the principal events in the formation of Indian Territory.

After the early treaties above described had given to the Cherokees and Choctaws the country lying immediately west of Arkansas, the next tribe to receive an assignment of lands in the Indian country was the Creeks.[18] The first treaty with this confederacy of tribes looking to a transfer beyond the Mississippi was made February 12, 1825.

By this treaty, in return for Georgia lands, the government offered the Creeks land west of the Mississippi "on the Arkansas river commencing at the mouth of the Canadian Fork thereof, and running westward between said rivers Arkansas and Canadian Fork, for quantity." If the lands thus designated were not acceptable, the Creeks were given the privilege of selecting others, anywhere in the Indian country except the portions assigned to the Choctaws and Cherokees.

This treaty was not ratified by the Creek council. Its terms were protested by a majority of the confederacy, and as a result a new agreement was signed by the chiefs and head men on January 24, 1826. In return for cession of the Georgia lands the United States agreed to pay the nation nearly a quarter of a million dollars and a perpetual annuity of $20,000. The followers of "the late General William McIntosh," having supported the former treaty and desiring a new home west of the Mississippi, were promised such land as their

[17] Most of the Choctaws had not left Mississippi by 1830, and in that year, on September 27, another treaty was made with them by which they agreed to cede all their possessions of the Mississippi and remove, during the falls of 1831, 1832 and 1833, to the reservation already set aside for them by the treaty of 1825. This treaty guaranteed self-government to the Choctaws, so far as not inconsistent with the constitution, treaties and laws of the United States and the position of the federal government in exercising general supervision over Indian affairs.

The United States assumed some unusual obligations by this treaty. Choctaw youths, to the number of forty, were to be kept in school at the expense of the national government for a period of twenty years. The government promised to build a council house, a house for each chief and a church for each of the three districts—besides the more usual gifts and annuities for education and for the industrial uses of the people.

[18] In their own language they were the Muskogee. Because of their residence between the headwaters of the Alabama and Savannah rivers, in a country broken by creeks and small streams, the early settlers gave them the name "Creeks," and under that title the nation or confederacy has been generally known. The Seminoles were part of the same race and were considered as a part of the Creeks except in the later treaties. The only serious revolt of the Creeks against the Americans took place in 1813-14, the Creek war, in which General Jackson took a prominent part. This ended in a complete defeat of the Indians and the submission of Weatherford, their leader, followed by the cession of the greater part of the lands belonging to those tribes that had arrayed themselves against the United States. The extended and bloody contest in Florida, from 1835 to 1843, known as the Seminole war, secured permanent peace with the southern tribes.

committee might select in the unoccupied country west of Missouri and Arkansas. To hasten their removal within the stipulated twenty-four months, an additional one hundred thousand dollars was promised the emigrating party, the greater part to be paid when the Indians were safely located on the west side of the river.[19]

What was known as the McIntosh[19½] emigration to the country beyond the Mississippi began about 1828. But the main body remained in their former homes, and other treaties, made effective by action of the military forces, were necessary before the Creek country became definitely fixed as the home of the nation. The Creeks, after having been betrayed, as they believed, by McIntosh in the earlier treaties, were very suspicious of treaty pledges. Finally, on March 24, 1832, by treaty, the United States commissioners offered the most liberal inducements to the remaining Creeks to remove beyond the Mississippi, and in reassurance that the new homes of the tribe should not be intruded upon or in any way jeopardized as they had been in Georgia, the United States guarantees . . . "nor shall any state or territory ever have a right to pass laws for the government of such Indians."

It was found that the lands assigned to the Creeks and the Cherokees overlapped, and that in consequence of the two peoples settling and claiming the same lands, "difficulties and dissentions" had been caused. The result was the gathering of the representatives of the interested tribes at Fort Gibson and the making of separate agreements with each by which the boundaries of their nations were defined. The treaty with the Cherokees has been described. That with the Creeks was signed the same day (February 14, 1833). A mutual boundary line was created on the north and east between the two nations as already described). The northern boundary as fixed by this treaty has played an important part in the history of Oklahoma divisions. Extending through Tulsa near its eastern end it ran west clear to the Mexican line (or, as now, the Texas Panhandle) and in the original Oklahoma was the northern line of Payne, Logan, Kingfisher and Blaine counties. The southern boundary of the Creek country, by this treaty, was the Canadian river. All the area between these north

[19] It was found that the Georgia cessions described in these treaties did not embrace all the lands of the nation in that state, and it required another treaty (dated November 15, 1827) and a payment of nearly $28,000 additional to secure a full relinquishment of Creek Indian title to Georgia lands.

[19½] William McIntosh was a mixed blood Creek, who, for his activity in behalf of the government in the treaty of 1825, was sentenced to death by the tribe and was executed May 1, 1825, by a chosen party of warriors, who shot him as he tried to escape from his house. It was claimed that he had betrayed the Creeks by "selling the graves of their ancestors." Georgia, having relinquished title to its Mississippi lands in 1802 on condition that the government should extinguish all Indian titles in the state, became increasingly urgent that the government should fulfill its agreement and remove the Indians. The Creeks resisted this plan to force them from their lands and in 1811 forbade the sale of the remaining land under penalty of death. McIntosh was prominent as the leader of the Creek allies of the Americans during the war of 1812-15, and fought against the hostile faction of his tribe at Horseshoe Bend in 1814. The lands of the hostiles were confiscated by the United States, and the treaties of 1818 and 1821 alienated large additional areas of the Creek country. The treaty of the latter year was signed only by McIntosh and twelve chiefs controlled by him, while thirty-six other chiefs and head men refused to sanction the agreement. By 1824 a total of fifteen million acres had been ceded, and the Creeks retained some ten million. The Georgian commissioners, appealing to the avarice of McIntosh, persuaded him and his followers to sign the treaty of 1825, ceding away remainder of the Georgia lands.

and south lines, from near the city of Muskogee on the east to the Texas line on the west. embracing the greater part of twenty of the present Oklahoma counties, was guaranteed as the perpetual home of the Creek tribes.[20]

One of the provisions of the treaty of 1833 with the Creeks related to the Seminoles, who were really a part of the Creek nation. It was provided that a place should be reserved in the Creek Nation for the Seminoles, and the latter should be considered "a constituent part of said nation." In the previous year (May 9, 1832), by treaty, these Florida Indians had relinquished their lands, and had agreed, in case they were satisfied with the new country in the Creek Nation, to remove within three years from the ratification of the treaty and become a constituent part of the Creek Nation. By a subsequent confirmatory treaty, signed at Fort Gibson, March 28, 1833, the Seminoles having accepted the terms of the previous treaty, were given a home between the north and south forks of the Canadian river and extending west not more than twenty-five miles above the mouth of Little river, including parts of the present counties of McIntosh, Hughes and Seminole.[21]

The various treaties above discussed pro-

[20] The exact boundaries as defined in the treaty of February 14, 1833, were: "Beginning at the mouth of the North Fork of the Canadian river and run northerly four miles—thence running a straight line so as to meet a line drawn from the south bank of the Arkansas river opposite to the east, or lower bank of Grand river, at its junction with the Arkansas, and which runs a course south forty-four degrees west, one mile, to a post placed in the ground—thence along said line to the Arkansas, and up the same and the Verdigris river, to where the old territorial line crosses it—thence along said line to a point twenty-five miles from the Arkansas river, where the old territorial line crosses the same—thence running a line at right angles with the territorial line aforesaid, or west to the Mexico line—thence along the said line southerly to the Canadian river or to the boundary of the Choctaw country—thence down said river to the place of beginning. The lines, hereby defining the country of the Muskogee Indians on the north and east, bound the country of the Cherokees along these courses, as settled by the treaty concluded this day between the United States and that tribe."

[21] A tract "lying between the Canadian river and the north fork thereof, and extending west to where a line running north and south between the Main Canadian and north branch will strike the forks of Little river, provided said west line does not extend more than twenty-five miles west from the mouth of said Little river."

A revision of relations and boundaries between the Creeks and Seminoles was effected in the treaty of August 7, 1856, the respective limits of the two nations being defined as follows:

Article 1. The Creek nation doth hereby grant, cede and convey to the Seminole Indians a tract of country included within the following boundaries: Beginning on the Canadian river, a few miles east of the ninety-seventh parallel of west longitude, where Ock-hi-appo or Pond Creek empties into the same; thence due north to the North Fork of the Canadian; thence up said North Fork to the southern line of the Cherokee country; thence with that line west to the one hundredth parallel of west longitude; thence south along said parallel of longitude to the Canadian river, and thence down and with that river to the place of beginning.

Art. 2. The following shall constitute and remain the boundaries of the Creek country: Beginning at the mouth of the North Fork of the Canadian river and running northerly four miles; thence running a straight line so as to meet a line drawn from the south bank of the Arkansas river, opposite to the east or lower bank of Grand river, at its junction with the Arkansas, and which runs a course, south, forty-four degrees, west one mile, to a post placed in the ground; thence along said line to the Arkansas and up the same and the Verdigris river, to where the old territorial line crosses it; thence along said line, north, to a point twenty-five miles from the Arkansas river, where the old territorial line crosses the same; thence running west with the southern line of the Cherokee nation to the North Fork of the Canadian river, where the boundary of the cession of the Seminoles defined in the preceding article first strikes said Cherokee line; thence down said North Fork to where the eastern boundary line of the said cession of the Seminoles strikes the same; thence with that line due south to the Canadian river, at the mouth of the Ock-hi-appo or Pond Creek, and thence down said Canadian river to the place of beginning.

vided for the disposition of all the country between Arkansas on the east and the line of the Mexican possessions on the west, and from Red river north to the 37th parallel of latitude. Thus early something like definite limits had been assigned to the Indian country. By the treaties with the Choctaws all of the present state of Oklahoma south of the Canadian river was assigned to that tribe (part of which was later given the Chickasaws. See Chapter VI). The Creeks were assigned all the country lying north of the Canadian as far as that well defined line that runs about the latitude of Tulsa and marks the dividing boundary between nine or ten modern counties, and extending from the west limit of the state to an eastern line that now corresponds fairly well with the main line of the M., K. & T. Railroad from Eufaula north through Muskogee and Wagoner. All of the present state lying east and north of the Creek country as just described belonged, by treaties, to the Cherokees, either as an actual home or as an outlet to the western hunting grounds. The strip lying west of the 100th meridian had not yet become United States possession. As a result of these treaties, the Five Civilized Tribes possessed, by the year 1835, all the country now known as Oklahoma, with the exception of the old public land strip.

CHAPTER V

THE INDIAN COUNTRY A REFUGE OF BARBARISM.

Though exploration of the western country during the years subsequent to the Louisiana Purchase had resulted in a large amount of information concerning its geography and inhabitants, many years passed before really definite and detailed knowledge of the country set aside for the Indians was possessed by any outside the hunters and trappers whose occupation gave them skilled familiarity with the region. About the time the Indians began moving to their western homes, several expeditions were undertaken largely for the purpose of bringing this country and its inhabitants into closer touch with the government and nation at large, and as a result of those adventures into the wilderness much is known that helps to form a picture of the Indian country as it existed three quarters of a century ago, while still a refuge of barbarism.

Lewis Cass, while secretary of war, on July 14, 1832, issued instructions to the commissioners (William Carroll, Montford Stokes and Robert Vaux), who had been appointed to visit the Indian country to negotiate with the tribes. Proceeding to Fort Gibson, they were to make themselves acquainted with the claims of the western Creeks and Cherokees, and settle their conflicting interests, if possible, by compromise (see preceding chapter). "I feel confident," says the secretary, "that the country extending from the Red river north of the reservation called the Perpetual Outlet, and bounded on the east by the territory of Arkansas and on the west by the Mexican line, is amply sufficient for all the Creeks and Cherokees in the United States. . . . There are probably 20,000 Creeks in Alabama, 4,000 Seminoles who are connected by consanguinity and manners with the Creeks, and about 10,000 Cherokees in Georgia, Alabama, Tennessee and North Carolina, who are yet to emigrate. It is the intention of the government that the different parts of the same tribe should be united together in their new country, so that the Creeks and Cherokees would each form but one people.

"The Chickasaws, amounting to about 4,000, are yet to emigrate; but the site of their location is not determined upon, though it is believed an agreement will be made with the Choctaws for the reception of all the Chickasaws among them in the country assigned to the former, between the Red river and the Canadian." In case this plan failed, the commissioners should look out for a suitable location. The Seminole delegation, searching for a location, would also be in the territory and would confer with the commissioners. Various tribes north of the Ohio were also to be assigned locations.

The Osages had been a source of trouble from the first, and the secretary, for that reason and to make room for other tribes, considered "it expedient to effect a removal of the Osage Indians from their present reservation to a district adjoining the Kansas. You will open a negotiation for that purpose. . . . By the treaty concluded

with the Osages June 2, 1825, certain reservations were granted to the individuals therein mentioned. As these reservations interfere with the permanent location of the Indians, and as complaints upon that subject have already been made, it is desirable to extinguish the titles thus created."

"It is an important object with the government," continues Secretary Cass, "to establish a permanent peace among all the tribes west of the Mississippi. The fear of hostilities arises from the habits and manners of the Panis, Comanches, and their kindred tribes. . . . The whole subject is referred to you."

"A part of the mounted rangers recently authorized to be raised by an act of Congress will be ordered to repair to Fort Gibson to attend you in the execution of your duties."

The commission thus created began its duties in the Indian country in the fall of 1832. A distinguished guest of the party in its movements over the country now embraced in Oklahoma was Washington Irving, whose marvelous descriptive power was thus turned to a narration of the principal events and a description of the region traversed in the course of the expedition. "A Tour of the Prairies," as Irving called the sketch detailing his experiences, is a classic writing on early Oklahoma. The following quotations are selected to describe, from this writer's observations, the country and inhabitants as he found them in 1832.

"It was early in October, 1832, that I arrived at Fort Gibson, a frontier post of the Far West, situated on the Neosho or Grand river, near its confluence with the Arkansas. I had been traveling for a month past, with a small party from St. Louis, up the banks of the Missouri, and along the frontier line of agencies and missions, that extends from the Missouri to the Arkansas. Our party was headed by one of the commissioners appointed by the government of the United States to superintend the settlement of the Indian tribes migrating from the east to the west of the Mississippi. In the discharge of his duties he was thus visiting the various outposts of civilization. . . .

"Having crossed the ford [of the Verdigris] we soon reached the Osage agency where Col. Choteau has his offices and magazines, for the dispatch of Indian affairs, and the distribution of presents and supplies. It consisted of a few log houses on the banks of the river, and presented a motley frontier scene. . . . Nearby was a group of Osages: stately fellows; stern and simple in garb and aspect. They wore no ornaments; their dress consisted merely of blankets, leggins and moccasins. . . . In contrast to these was a gayly dressed party of Creeks. There is something, at the first glance, quite oriental in the appearance of this tribe. . . . Besides these there was a sprinkling of trappers, hunters, half-breeds, creoles, negroes of every hue; and all that other rabble rout of nondescript beings that keep about the frontiers, between civilized and savage life, as those equivocal birds, the bats, hover about the confines of light and darkness.

"The little hamlet of the agency was in complete bustle; the blacksmith's shed, in particular, was a scene of preparation; a strapping negro was shoeing a horse; two half-breeds were fabricating iron spoons in which to melt lead for bullets. . . .

"Our route lay parallel to the west bank of the Arkansas. . . . For some miles the country was sprinkled with Creek villages and farm houses; the inhabitants of which appeared to have adopted, with considerable facility, the rudiments of civilization, and to have thriven in consequence. Their farms

were well stocked, and their houses had a look of comfort and abundance.

"Our plan was to cross the Arkansas just above where the Red Fork [Cimarron] falls into it, then to keep westerly, until we should pass through a grand belt of open forest, called the Cross Timber, which ranges nearly north and south from the Arkansas to the Red river; after which we were to keep a southerly course toward the latter river. . . .

"The conversation now turned [after crossing the Arkansas above the Red Fork] upon the Pawnees, into whose hunting grounds we were about entering. There is always some wild untamed tribe of Indians, who form for a time the terror of a frontier, and about whom all kinds of fearful stories are told. Such, at present, was the case with the Pawnees, who rove the regions between the Arkansas and the Red river, and the prairies of Texas. . . . . They roam the great plains that extend about the Arkansas, the Red river, and through Texas, to the Rocky mountains; sometimes engaged in hunting the deer and buffalo, sometimes in warlike and predatory expeditions. . . .

"[The party crossed the Red Fork about seventy-five miles, as they supposed, above its mouth, and then entered the Cross Timber.] It was the intention of the captain to keep on southwest by south, and traverse the Cross Timber diagonally, so as to come out upon the edge of the great western prairie. . . The plan of the captain was judicious; but he erred from not being informed of the nature of the country. Had he kept directly west, a couple of days would have carried us through the forest land, and we might then have had an easy course along the skirts of the upper prairies, to Red river; by going diagonally, we were kept for many weary days toiling through a dismal series of rugged forests. The Cross Timber is about forty miles in breadth, and stretches over a rough country of rolling hills, covered with scattered tracts of post-oak and black-jack; with some intervening valleys, which at proper seasons would afford good pasturage. It is very much cut up by deep ravines, which in the rainy seasons are the beds of temporary streams, tributary to the main rivers, and these are called 'branches.' The whole tract may present a pleasant aspect in the fresh time of the year, when the ground is covered with herbage; when the trees are in their green leaf, and the glens are enlived by running streams. Unfortunately we entered it too late in the season. The herbage was parched; the foliage of the scrubby forests was withered; the whole woodland prospect, as far as the eye could reach, had a brown and arid hue. . .

"A consultation was now held as to our future progress. We had thus far pursued a western course, and, having traversed the Cross Timber, were on the skirts of the Great Western Prairie. We were still, however, in a very rough country, where food was scarce. The season was so far advanced that the grass had withered, and the prairies yielded no pasturage. The pea-vines of the bottoms, also, which had sustained our horses for some part of the journey, were nearly gone, and for several days past the poor animals had fallen off wofully, both in flesh and spirit. The Indian fires on the prairies were approaching us from north and south and west; they might spread also from the east, and leave a scorched desert between us and the frontier, in which our horses might be famished.

"It was determined, therefore, to advance no further to the westward, but to shape our course more to the east, so as to strike the north fork of the Canadian as soon as

possible, where we hoped to find abundance of young cane; which, at this season of the year, affords the most nutritious pasturage for the horses, and at the same time attracts immense quantities of game. Here then we fixed the limit of our tour to the Far West, being within little more than a day's march to the boundary line of Texas. [In reality they were about 150 miles from the Panhandle of Texas.]

". . . Resuming our march, we forded the North Fork [of the Canadian], a rapid stream, and of a purity seldom to be found in the rivers of the prairies. . . . After crossing the river we again ascended among hills, from one of which we had an extensive view over this belt of Cross Timber, and a cheerless prospect it was,—hill beyond hill, forest beyond forest, all of one sad russet hue, excepting that here and there a line of green cottonwood trees, sycamores and willows marked the course of some streamlet through a valley. A procession of buffaloes, moving slowly up the profile of one of those distant hills, formed a characteristic object in the savage scene. To the left, the eye stretched beyond this rugged wilderness of hills, and ravines, and ragged forests, to a prairie about ten miles off, extending in a clear blue line along the horizon. It was like looking from among rocks and breakers upon a distant tract of tranquil ocean. . . .

"After proceeding. . . we emerged from the dreary belt of the Cross Timber, and to our infinite delight beheld 'the great Prairie,' stretching to the right and left before us. We could distinctly trace the meandering course of the Main Canadian, and various smaller streams, by the strips of green forest that bordered them. . . .

"We had hoped, by pushing forward to reach the bottoms of the Red river, which abound with young cane, a most nourishing forage for cattle at this season of the year. It would now take us several days to arrive there, and in the meantime many of our horses would give out. It was time, too, when the hunting parties of the Indians set fire to the prairies. . . . We had started too late in the season, or loitered too much in the early part of our march, to accomplish our originally intended tour. . . . It was determined, therefore, to give up all further progress, and, turning our faces to the southeast, to make the best of our way back to Fort Gibson. . . .

"After proceeding a few miles, we left the prairie, and struck to the east, taking what Beatte pronounced an old Osage war track. This led us through a rugged tract of country, overgrown with scrubbed forests and entangled thickets, and intersected by deep ravines and brisk-running streams, the sources of Little river [which are in the present Cleveland county]. . . . In the course of the [following] morning we arrived at the valley of the Little river, where it wound through a broad bottom of alluvial soil. At present it had overflowed its banks and inundated a great part of the valley. . . .

"The country through which we passed this morning [Nov. 2] was less rugged and of more agreeable aspect than that we had lately traversed. At eleven o'clock we came out upon an extensive prairie, and about six miles to our left beheld a long line of green forest, marking the course of the north fork of the Canadian. On the edge of the prairie, and in a spacious grove of noble trees which overshadowed a small brook, were the traces of an old Creek hunting camp. . . . We forded the north fork of the Canadian. . . .

"We set forward at an early hour the next morning, in a northeast course, and

came upon the trace of a party of Creek Indians which enabled our poor horses to travel with more ease. We entered upon a fine champaign country. From a rising ground we had a noble prospect, over extensive prairies, finely diversified by groves and tracts of woodland, and bounded by long lines of distant hills, all clothed with the rich mellow tints of autumn. . . .

"We halted for the night in a spacious forest, beside a deep narrow river, called the Little North Fork, or Deep Creek. . . . As this stream was too deep to be forded, we waited until the next day to devise means to cross it. [A day or so more brought them in the vicinity of the Arkansas. Both men and animals were almost exhausted by the hardships and privations of travel.] In this way we crept on until, turning a thick clump of trees, a frontier farm house suddenly presented itself to view. It was a low tenement of logs, overshadowed by great forest trees, but it seemed as if a very region of Cocaigne prevailed around it. Here was a stable and barn, and granaries teeming with abundance, while legions of grunting swine, gobbling turkeys, cackling hens and strutting roosters, swarmed about the farm yard. . . . I sprang off my horse in an instant, cast him loose to make his way to the corn crib, and entered this place of plenty. A fat, good-humored negress received me at the door. She was the mistress of the house, the spouse of the white man, who was absent. . . . In a twinkling she lugged from the fire a huge iron pot, that might have rivalled one of the flesh-pots of Egypt, or the witches' caldron in Macbeth. Placing a brown earthen dish on the floor, she inclined the corpulent caldron on one side, and out leaped sundry great morsels of beef, with a regiment of turnips tumbling after them, and a rich cascade of broth overflowing the whole. This she handed me with an ivory smile that extended from ear to ear; apologizing for our humble fare, and the humble style in which it was served up. Humble fare! Humble style! Boiled beef and turnips, and an earthen dish to eat them from! To think of apologizing for such a treat to a half-starved man from the prairies; and then such magnificent slices of bread and butter!"

Dodge' Expedition from Fort Gibson in 1834

In the summer of 1834, Col. Henry Dodge, commanding a regiment of dragoons, with S. W. Kearney second in command, undertook an expedition from Fort Gibson to the Pawnee Pict Village and through the Comanche country. This was the expedition that George Catlin, the portrait painter, accompanied, and M. Beyrich, the Prussian botanist, was another of the party. Some interesting notes on the country are found in the journal of the campaign, kept by Lieut. T. B. Wheelock (Amer. State Papers, Mil. Affairs, Vol. V, p. 373).

George Catlin, the English portrait painter and sketch artist who accompanied the expedition, gathering material for his studies and sketches of North American Indians, has left many sketches, aside from those drawn by his pen, descriptive of this country.[1] In the course of the campaign he was in constant association with the officers of the regiment, as a guest of honor, and through him we get a closer acquaintance with some of the first commanders who campaigned over the southwestern country. He speaks of General Arbuckle, in com-

[1] "Letter and Notes on the Manners, Customs and Condition of the North American Indians," by George Catlin (London, 1841).

mand of the Seventh Regiment at Fort Gibson at the time, "one of the oldest officers on the frontier, and the original builder of the post." Before leaving Fort Gibson another noted veteran, General Leavenworth, arrived at this post, superseding Arbuckle in command. It is an attractive scene from the Indian country three-quarters of a century ago that is pictured in the following description of a review of the troops at Fort Gibson: "Both regiments were drawn up in battle array, in fatigue dress, and passing through a number of the maneuvers of battle, of charge and repulse, etc., presented a novel and thrilling scene in the prairie to the thousands of Indians and others who had assembled to witness the display. The proud and manly deportment of these young men remind one forcibly of a regiment of Independent Volunteers, and the horses have a most beautiful appearance from the arrangement of colors. There is a company of *bays*, a company of *blacks*, one of *whites*, one of *sorrels*, one of *greys*, one of *cream* color, etc., etc., which render the companies distinct, and the effect exceedingly pleasing."

Of the commander of the expedition and its objects, Catlin says: "This regiment goes out under the command of Colonel Dodge, and from his well tested qualifications, and from the beautiful equipment of the command, there can be little doubt but that they will do credit to themselves and an honor to their country. The object of this summer's campaign seems to be to cultivate an acquaintance with the Pawnees and Camanchees. These are two extensive tribes of roaming Indians, who, from their extreme ignorance of us, have not yet recognized the United States in treaty, and have struck frequent blows on our frontiers and plundered our traders who are traversing their country. For this I cannot so much blame them, for the Spaniards are gradually advancing upon them on one side, and the Americans on the other, and fast destroying the furs and game of their country."

The eight companies, leaving Camp Rendezvous (about twenty miles west of Fort Gibson) on June 21, marched toward the Washita on a new road made by General Leavenworth. Marching west by south, about 85 miles from Fort Gibson, they reached the Canadian river near the mouth of Little river, where General Leavenworth was encamped. At this point Lieutenant Holmes of the Seventh Infantry had just begun the building of a fort and quarters for two companies (Fort Holmes). The expedition reached the Washita about July 1st. "The 'note of preparation' is now heard over the camp; all are engaged in making ready for the Pawnee chase." The hot weather, poor water, and the exposures of the march had caused much sickness, and the active force that set out against the Pawnees consisted of about 250 men. To add to their troubles, one night while encamped, a stupid sentinel mistook a horse for a hostile Indian, and not receiving the countersign in answer to his challenge, shot the poor creature. This alarmed the camp and set off in stampede the rest of the horses, which were recovered with difficulty. "The men of the regiment are excellent material, but unused to the woods."

One of the objects of this expedition was the investigation and punishment of the murder of a white hunter, who had been slain while hunting in the Comanche country. "Judge Martin," said Catlin, "was a very respectable and independent man, living on the lower part of Red river, and in the habit of taking his children and a couple of black men servants with him, and a tent to live in, every summer, into

these regions; where he pitched it upon the prairie, and spent several months in killing buffalo and other wild game for his own private amusement. The news came to Fort Gibson but a few weeks before we started, that he had been set upon by a party of Indians and destroyed. A detachment of troops was speedily sent to the spot, where they found his body horribly mangled, and also one of his negroes; and it is supposed that his son, a fine boy of nine years of age, has been taken home to their villages by them. Where they still retain him, and where it is our hope to recover him."

From the mouth of the Washita the course of the expedition was west, along the divide between the Washita and Red rivers, across what is now southern Oklahoma, toward the Wichita mountains. "The country over which we passed from day to day, was inimitably beautiful; being the whole way one continuous prairie of green fields, with occasional clusters of timber and shrubbery, just enough for the uses of cultivating man, and for the pleasure of his eyes to dwell upon." Over this region through which the expedition passed, along a route that would now afford almost a continuous view of cultivated fields, of cattle pastures, and towns, at that time herds of buffalo and wild horses were the principal possessors. The hunting of buffalo was a sport in which Catlin and his friends engaged with much pleasure and the hired hunters of the expedition furnished the entire command with buffalo meat. But the wild horses were not so easily approached or captured, and only once did the artist succeed in getting a close view of a herd at rest.

On the fourth day of the march from the mouth of the Washita, a band of Comanche warriors was met, and after considerable maneuvering Colonel Dodge succeeded in convincing them of pacific intentions, and a general shaking of the hands and smoking of a peace pipe introduced a talk by Colonel Dodge, in which he explained to the savages the friendly motives of the campaign, "that we were sent by the president to reach their villages, to see the chiefs of the Camanchees and Pawnee Picts, to shake hands with them, and to smoke the pipe of peace, and to establish an acquaintance, and consequently a system of trade that would be beneficial to both." The Comanches then undertook to guide the troops to the principal villages, which lay to the west among the mountains of the Wichita range. Many hard and tedious days of travel brought them within view of the village. "Having led us to the top of a gently rising elevation on the prairie," says Catlin, "they pointed to their village at several miles' distance, in the midst of one of the most enchanting valleys that human eyes ever looked upon. The general course of the valley is from N. W. to S. E., of several miles in width, with a magnificent range of mountains rising in distance beyond; it being, without doubt, a huge 'spur' of the Rocky Mountains [?], composed entirely of a reddish granite or gneis. . . . In the midst of this lovely valley, we could just discern among the scattering shrubbery that lined the banks of the watercourses, the tops of Camanchee wigwams, and the smoke curling above them. The valley, for a mile distant about the village, seemed speckled with horses and mules that were grazing in it."

Their introduction into the village was made an occasion of great ceremony, and the whites were the objects of constant curiosity and admiration on the part of the inhabitants. The state of the Comanches at that time was of the rudest and most

transitory, they lived in skin-covered lodges that could readily be folded up and carried along with change of abode, their subsistence was mainly on the results of the chase, though they also to some extent cultivated corn. Though primarily an artist, Catlin was careful to make estimates of the condition and number of the tribes that he met. He was much impressed by the numbers and prowess of the Comanches, but could form no reliable estimate of their strength. "Taking their own account of villages they point to in such numbers, south of the banks of Red river, as well as those that lie farther west, and undoubtedly north of its banks, they must be a very numerous tribe."

From the Comanche villages the campaigners next turned toward the Pawnees. "We were four days traveling over a beautiful country, most of the way prairie, and generally along near the base of a stupendous range of mountains of reddish granite, in many places piled up to an immense height, without tree or shrubbery on them; looking as if they had actually dropped from the clouds in such a confused mass, and all lay where they had fallen. Such we found the mountains enclosing the Pawnee village, on the bank of Red river, about ninety miles from the Camanchee town. . . . We found here a very numerous village, containing some five or six hundred wigwams, all made of long prairie grass, thatched over poles which are fastened in the ground and bent in at the top; giving to them, in distance, the appearance of straw beehives. . . . To our very great surprise we have found these people cultivating quite extensive fields of corn, pumpkins, melons, beans and squashes; so, with these aids, and an abundant supply of buffalo meat, they may be said to be living very well."

In the Pawnee village it was supposed the perpetrators of the murder of Judge Martin would be found, and after the formal peace negotiations had been concluded, diligent inquiry was made concerning the deed. The Pawnees at first denied any knowledge or complicity in the affair, but finally a negro living among the Indians gave information that a white boy was being kept prisoner. Colonel Dodge with great show of anger then broke off the conference with the chiefs, and refused further dealings with them until the boy was brought in, offering in exchange two Pawnee prisoners whom the commander had procured from the Osages, for the very purpose of forwarding negotiations with their countrymen. Therewith the Pawnees, satisfied with the sincerity of the Americans, had the white boy brought in from the middle of the corn field, where he had been kept secreted. At the inquiry what was his name, he promptly replied, "My name is Matthew Wright Martin." The soldiers carried him back to Fort Gibson, and eventually he was restored to the arms of his disconsolate mother. After this exchange of prisoners the council with the Pawnees proceeded with great good will, and later the Kiowas and Wacos, who lived to the west, were also brought into conference.

From the Comanche village the troops turned to the upper courses of the Canadian river, where, among the many herds of grazing buffalo, a grand hunt was started and meat secured for the rest of the campaign. Over this high plains country between the Red and Canadian rivers, the dragoons found the difficulties of marching and subsisting most trying, and not a few of those brave fellows died en route and their bodies were left to decay on the prairies. Writing from "Camp Canadian,

Texas," Catlin says: "From the Camanchee village to this place the country has been entirely prairie; and most of the way high and dry ground, without water, for which we sometimes suffered very much. From day to day we have dragged along, exposed to the hot and burning rays of the sun, without a cloud to relieve its intensity, or a bush to shade us, or anything to cast a shadow, except the bodies of our horses. The grass for a great part of the way was very much dried up, scarcely affording a bite for our horses; and sometimes for the distance of many miles the only water we could find was in stagnant pools, lying on the highest ground, in which the buffaloes have been lying and wallowing like hogs in a mud puddle. . . . . This poisonous and indigestible water, with the intense rays of the sun in the hottest part of the summer, is the cause of the unexampled sickness of the horses and men. Both appear to be suffering and dying with the same disease, a slow and distressing bilious fever, which seems to terminate in a most frightful and fatal affection of the liver."

History should not fail to record some of the victims of this campaign. Day after day a brief military honor was paid to some poor soldier who had given up his life in campaigning against the climate rather than against hostile Indians. A military figure of even national prominence was also sacrificed during this expedition. While the remnant of the expedition were recuperating at Camp Canadian, an express arrived with the tidings of the death of General Leavenworth, Lieutenant McClure and ten or fifteen of the men who had remained at the mouth of the Washita. General Leavenworth, who had been in command of the expedition up to that point, had, after the departure of the main body of troops, followed on to the "Cross Timbers," a distance of fifty or sixty miles, where his illness proved fatal. Catlin states his belief that the general died from the effects of a fall received during a chase after buffaloes. He says: "My reason for believing this is, that I rode and ate with him every day after the hour of his fall; and from that moment I was quite sure that I saw a different expression in his face from that which he naturally wore." One day Catlin remarked: "General, you have a very bad cough." "Yes," he replied, "I have killed myself in running that devilish calf; and it was a very lucky thing, Catlin, that you painted the portrait of me before we started, for it is all that my dear wife will ever see of me."

Henry Leavenworth, who died July 21, 1834, in the Cross Timbers of Indian Territory, aged fifty-one, had been a soldier since the war of 1812, when he gave up a law practice to enter the army, was successively promoted, until in 1824 he was brevetted brigadier general "for ten years' faithful service in one grade." During the last ten years of his life he was engaged in campaigning on the western frontier, and founded the post in Kansas which has since borne his name.

Out of the four or five hundred men who started on the campaign, nearly a third were swept away by disease. Without the indefatigable leadership of Colonel Dodge and Lieutenant Kearney it is doubtful if the expedition would ever have accomplished so much and returned. Another who gave up his life was the Prussian botanist, M. Beyrich, who had received the fatal illness during the march and died at Fort Gibson.

The licensed trader system as a part of the scheme by which the government sought the regulation of the wild Indian tribes was severely and justly, it seems, criticised by Catlin ("Letters and Notes," Vol. II, p.

83). He refers to the arduous campaign of Colonel Dodge and his dragoons through southwestern Indian Territory in the summer of 1834, and after praising the achievement of bringing the unknown tribes to an acquaintance and a general peace, expresses his doubts of the resulting benefits to the Indians, "unless with the exercised aid of the strong arm of the government they can be protected in the rights to which, by nature, they are entitled." The Comanche, Pawnee and other chiefs, after being entertained at Fort Gibson, and participating in the general peace conference, departed for their homes, followed by a company of eighty traders and trappers. These licensed agents of civilization were the first, Catlin says, to penetrate the Indian country along the headwaters of the Red and Canadian rivers, and from the revenues of their trading house and their trapping, etc., stood in a position to realize a fortune.

"I have traveled too much among Indian tribes," is Catlin's comment, "not to know the evil consequences of such a system. Goods are sold at such exorbitant prices that the Indian gets a mere shadow for his peltries, etc. The Indians see no white people but traders and sellers of whisky; and, of course, judge us all by them—they consequently hold us, and always will, in contempt; as inferior to themselves, as they have reason to do—and they neither fear nor respect us. When on the contrary, if the government would promptly prohibit such establishments, and invite these Indians to our frontier posts, they would bring in their furs, their robes, horses, mules, etc., to this place, where there is a good market for them all . . . where there is an honorable competition, and where they would get four or five times as much for their articles of trade as they would get from a trader in the village, out of the reach of competition, and out of sight of the civilized world.

"At the same time, as they would be continually coming where they would see good and polished society, they would be gradually adopting our modes of living—introducing to their country our vegetables, our domestic animals, poultry, etc., and, at length, our arts and manufactures; they would see and estimate our military strength and advantages, and would be led to fear and respect us. In short, it would undoubtedly be the quickest and surest way to a general acquaintance—to friendship and peace, and at last to civilization. If there is a law in existence for such protection of the Indian tribes . . . it is a great pity that it should not be rigidly enforced in this new and important acquaintance, which we have just made with thirty or forty thousand strangers to the civilized world; yet (as we have learned from their unaffected hospitality when in their villages), with hearts of human mould, susceptible of all the noble feelings belonging to civilized man."

Military Posts of Indian Territory

Some of the old maps of Indian Territory, before it was opened to white settlement, are marked by the sites of military posts that have been more or less famous in military operations of the West and are connected intimately with the early history of the territory. Concerning the posts indicated on a map issued by the Bureau of Engraving at Washington in October, 1866, the records of the war department give the following information [from data in the Oklahoma Historical Society's collection]:

Fort Smith, which, though located on the south bank of the Arkansas river in the state of Arkansas, played a conspicuous

part in the affairs of Indian Territory, was established at the mouth of Poteau river in 1817; named in honor ot Brig.-Gen. Thomas A. Smith; was finally abandoned in August, 1871.

Fort Gibson, on the left bank of the Neosho (or Grand) river, 2½ miles from its confluence with the Arkansas, was established in April, 1824; named in honor of Col. George Gibson, then commissary general of subsistence; finally abandoned October 1, 1890.[2]

Fort Coffee, at Swallow Rock on the Arkansas, about 12 miles south of Fort Smith, was established April 22, 1834; named in honor of Gen. John Coffee, Tennessee Militia; abandoned October 19, 1838.

Fort Wayne, on the Illinois river in Cherokee nation, was established October 29, 1838; named in honor of Anthony Wayne; abandoned May 26, 1842.

Fort Towson, in Choctaw nation, 6 miles northwest of Red river, was established in May, 1824; named in honor of Col. Nathan Towson, then paymaster general; abandoned June 8, 1854.

Fort Holmes, on the left bank of the Canadian river. Work commenced on this fort in June, 1834, but it was never completed or occupied by U. S. troops.

Fort Arbuckle (old), at the confluence of the Red Fork (or Cimarron river), 70 miles northwest of Fort Gibson, was established June 24, 1834; named in honor of Col. Matthew Arbuckle, 7th Infantry; abandoned November 11, 1834.

Camp Arbuckle, on the right bank of and one mile from the Canadian river, was established August 22, 1850, and abandoned April 17, 1851.

Fort Arbuckle, 4 miles south of Washita river and 76 miles northwest of its junction with Red river, was established April 19, 1851, and abandoned June 24, 1870.

Fort Washita, near the False Washita, in the Chickasaw district, was established April 23, 1842, and abandoned May 1, 1861.

Fort Cobb, at the junction of Pond creek

[2] Early in 1834 the legislature of Arkansas memorialized Congress to cause the removal of the troops from Ft. Gibson to the western boundary of Arkansas. After considering the memorial the committee of military affairs reported a bill favoring the request of the legislature, and in reporting the bill the following reasons were assigned for such action:

Before Arkansas was formed into a territorial government the protection of our citizens induced the government to establish a military post at the junction of the Poteau and Arkansas rivers. This post was called "Fort Smith," and for several years was entirely west of the settlements of the citizens of the United States. After the western boundary of Arkansas was fixed (in 1825) at a point 40 miles west of Fort Smith, the troops were removed, Fort Smith was abandoned, and Fort Gibson established. "And all the intermediate country thus acquired or added to Arkansas was organized into counties by the legislature of Arkansas and settled by our citizens. Afterwards, in 1828, the government, in opposition to the firm and spirited remonstrance . . . ceded the country aforesaid to the Cherokee Indians." At the same time, says the committee's report, the line of Arkansas was "brought back" and permanently fixed (near Ft. Smith). "The garrison, however, has not been brought back with the line. The troops intended for the protection of the citizens of Arkansas are still stationed at Fort Gibson, in the midst of the Cherokee nation. . . . The garrison, situated where it now is, can afford but little protection to the citizens of Arkansas. . . . As the present western boundary line is fixed by treaty and probably will never be extended further west; and as the policy of the government has been and will be to settle various tribes of Indians permanently on that frontier; and as, on that account, there will ever be a necessity to keep up a garrison there for their protection, the committee have no hesitation in recommending the removal of the garrison from Fort Gibson to some eligible point on the Arkansas river, near the western boundary of Arkansas."

and the Washita river, was established October 1, 1859, and finally abandoned March 12, 1869.

Fort Cobb was selected by Major W. H. Emory. His report to the war department, October 3, 1859, says: "I have selected the site for Fort Cobb, west of the Texas Indian reservation. . . . Fort Cobb is accessible by a good road from Belknap and Camp Cooper [in Texas] made by the reserve Indians; also by a road, excellent in dry seasons, made by my command, from Fort Arbuckle, and I expect to open a better communication than the last directly with Fort Smith, by intersecting the ridge or Whipple road to the north of this post."

Camp Radzminski, on Otter creek, at the base of the Wichita mountains, was established September, 1858, and abandoned December 6, 1859; named in honor of 1st Lieut. Charles Radzminski, 2d Cavalry.

CHAPTER VI

REMOVAL OF THE INDIANS

The policy of concentrating the Indians in the western wilderness acquired from France originated, as we have seen, during Jefferson's administration, almost as soon as the Louisiana Purchase had been consummated. The practical features of the Indian policy as maintained by our government till after the Civil war were, however, first definitely indicated in the Cherokee treaty of 1817, were more completely outlined in 1825 by Monroe and Calhoun, and further defined in the Indian Intercourse act of 1834. The policy embraced the following objects: 1. The removal of the tribes beyond the limits of white settlement and the jurisdiction of state or territorial governments; 2. assignment of lands in perpetuity; 3. seclusion from the whites; government by tribal organization and Indian customs, under the supervision of the United States, and to the end that the Indians might eventually be prepared for participation in the privileges and responsibilities of full citizenship.

The plan of Indian colonization beyond the Mississippi which formed the general basis for the action of subsequent administrations, is contained in the report of Secretary Calhoun, accompanying the message of President Monroe (January 27, 1825). It contemplated the formation of two general reservations—one in the northwest for the Indians of Algonquin and Iroquois stock, and another in the southwest for the Appalachian Indians. The latter was the only one ever established with approximate boundaries, but the line between the racial stocks was never preserved, Algonquins and Iroquois being mingled with the Appalachian tribes in Indian Territory almost from the earliest migrations.

Secretary of War Calhoun's recommendation that the Indians be concentrated on the west side of the Mississippi in two grand reservations, received the approval and support of President Monroe during the session of 1824-25, and he asked the necessary appropriation to begin the work. A bill to that effect passed the senate by unanimous vote. Furthermore, the senate approved the treaties with the Kansas and Osage tribes, negotiated by General Clarke in 1825, which ceded all the vast country west of Missouri and Arkansas, thus providing the region to which the eastern tribes might be removed. Benton, in his "Thirty Years' View" (pp. 28-29), says that the recommendation of Mr. Monroe and the treaties of 1825 were the beginning of the system of total removal. He also claims that the removal of the Indians was involved with the slavery question. The cession of lands and removal of the tribes were of vital importance to the future welfare of several states and territories, but the states and territories thus to be relieved were slave-holding. "To remove the Indians would make room for the spread of slaves. No removal could be effected without the double process of a treaty and an appropriation act—the treaty to be ratified

by two-thirds of the senate, where the slave and free states were equal, and the appropriation to be obtained from Congress [the house], where free states held the majority of members. It was evident that the execution of the whole plan was in the hands of the free states; and nobly did they do their duty by the south. Some societies, and some individuals, no doubt, with very humane motives, but with the folly, and blindness, and injury to the objects of their care which generally attend a gratuitous interference with the affairs of others, attempted to raise an outcry, and made themselves busy to frustrate the plan; but the free states themselves, in their federal action . . . cordially concurred in it, and faithfully lent it a helping and efficient hand."

The influence of the slavery question in the location of the Indians west of the Mississippi has been stated by Rev. Isaac McCoy[1] ("Baptist Indian Missions," p. 323), who in the latter part of 1827 was in Washington as an advocate of the measure for the organization of an Indian territory, then before Congress. He says: "Among objections to the formation of an Indian territory was one on the part of the non-slaveholding states, relative to the formation of new states in the west. . . . In the formation of an Indian territory in the west, a portion of the country north of this line [the Missouri compromise line] would be assigned to the Indian tribes, and, consequently, the number of non-slaveholding states would ultimately be curtailed. A majority, however, seemed not opposed to tribes removing west upon the same parallels of latitude which they respectively occupied on the east of the Mississippi river. The two parties which are necessarily formed in our government upon the subject of slavery have continued from that time to this [1839] to manifest great tenacity for what each esteems its rights; the non-slaveholding states opposing every measure which they suppose would introduce southern Indians on to their side of the line compromised, and the southern states as warmly opposing the filling up of the country on the south side of the line with Indians from the north. The Indians, when located in the west, were not expected by either party to become citizens of the United States, and it was contemplated that white citizens would be excluded from the Indian territory."[2]

[1] Isaac McCoy was perhaps the most noted of Indian missionaries. A pioneer of the Baptist church in preaching the gospel through the west, he was for years on the frontier of civilization, first in the Northwest Territory and from 1828 to the close of his life was engaged in the promotion of missions among the western Indians, spending much of his time in the Indian Territory. He had begun preaching in Indiana territory in 1805, became Indian missionary in 1817 and in 1842 was appointed first corresponding secretary and general agent of the American Indian Mission Association at Louisville. He died in 1846, aged sixty-two. With a consuming earnestness in his labors for the advancement of the Indians, he was catholic in spirit and broad in the judgment needed to handle the vexatious affairs of the Indians. His sincerity and unselfishness cannot be doubted. He was a devoted friend of the Indian, and at the same time that devotion did not carry with it the narrowness in political views from which many of the missionaries and self-appointed friends of the Indian suffered. For this reason his views on the Indian question, all the result of personal observation and working contact, have a special value as a wholesome mean between the bias of government bureau reports and the untempered advocacy of those who discussed the Indian theoretically or from purely humanitarian standpoint. In 1839 he completed his "History of the Baptist Indian Missions: embracing remarks on the former and present condition of the aboriginal tribes; their settlement within the Indian Territory, and their future prospects," which was published at Washington in 1840.

[2] Benton, in his "Thirty Years' View," constantly discusses the removal of the Indians from

In the case of Worcester vs. State of Georgia (U. S. Sup. Court Reports, Vol. VI, p. 515) Chief Justice John Marshall stated the legal possession of Indian tribes who had been guaranteed lands and residence within the borders of the United States. His opinion, delivered in 1832, declared that the right of discovery could not affect the rights of those already in possession as aboriginal inhabitants, that while the discoverers obtained the right of purchase, that right did not include a denial of the right of the possessor to sell. The opinion was then applied in detail to the contest between the state of Georgia and the Cherokee Indians, from which the case had originated. Marshall declared that all the legislative and treaty acts of Georgia proved her acquiescence in the principle that the Cherokee Nation possessed a full right to the lands they occupied; that their territory was separated by treaty from that of any state within which they might reside; and that within their boundary the Indians possessed rights with which no state could interfere, and that the whole power of regulating intercourse with them was vested in the United States.[2]

The opinion thus summarized by the highest court of the United States was delivered in the nature of a final judgment on the conflict that had been going on for years between the white settlers of Georgia and adjacent states and the native Indians over the possession of lands that had been ceded to the latter and defined in numerous treaties beginning shortly after the Revolutionary war. The judicial opinion above expressed has a primary interest in this discussion not because it summarizes the principles of policy which thereafter governed Indian relations with the whites, but rather as a statement of the abstract theory which, during the history of the changing destiny of the Indian country, was assumed, by one party, as the legal shield that protected the Indians against the encroachments and intrusion of the white people. At the time this opinion was handed down by the supreme court Andrew Jackson was president of the United States, and one of the most aggressive of the advocates of territorial expansion, being quite in sympathy with the movement even then in progress for the American occupation of Texas, and for the extension of American dominion over the Oregon country. Moreover, Jackson was from Tennessee, had led the western army against the Creeks, had been active in the seizure of the western Floridas from Spain, and for these reasons was naturally allied with those who were steadily seeking to force the Indians from lands which were in the direct line of white settlement. Thus,

the southern states in its bearing on the slavery problem. In his efforts to preserve the harmony of the Union, he seeks every possible reason to prove to the south that the north had not pursued a determined policy of depriving the southern states of their slaves. He says (Chap. CLIV): "To all the relieved states the removal of the tribes within their borders was a great benefit—to the slave states transcendantly and inappreciably great. . . . Northern votes, in the senate, came to the ratification of every treaty, and to the passage of every necessary appropriation act in the house of representatives. Northern men may be said to have made the treaties, and passed the acts, as without their aid it could not have been done, constituting, as they did, a large majority in the house, and being equal in the senate, where a vote of two-thirds was wanting. . . . And thus the area of slave population has been almost doubled in the slave states, by sending away the Indians to make room for their expansion; and it is unjust and cruel—unjust and cruel in itself, independent of the motive—to charge these northern states with a design to abolish slavery in the south."

[2] The history of the Cherokees is given, from authoritative sources, by C. C. Royce ("Cherokee Nation of Indians," Fifth Annual Report Bureau of American Ethnology, 1883-84).

between the practical forces that have been called "progress of civilization," and "western expansion and development," and those theories held by the more conservative portion of Americans (the majority of whom were never in close contact with the actual conditions) who held that the rights of the Indian tribes were paramount to the claims of white settlers, the conflict was begun with President Jackson and Justice Marshall as the respective leaders of the opposing policies; and in this as in other matters of politics they were bitter enemies, so that, after the decision in the above mentioned case, Jackson is said to have remarked: "Well, John Marshall has made his decision, now let him enforce it."

The history of the Georgia case, one of the issues of which was the decision of the supreme court above noted, involves the typical events in the removal of the Indians from east of the Mississippi to the country designed for the tribes in the Louisiana Purchase. As told elsewhere, the "hunter" Cherokees had in 1808 expressed a desire to remove to a country where they could continue their habits of life unobstructed by the confinement of state boundaries and the jurisdiction of white population. This had resulted in the first removal of a portion of the Cherokees to Arkansas, a few parties having emigrated voluntarily in the course of the next few years. But the causes that promoted the final removal of the Indians from the southern states originated in more or less definite promises of the federal government to extinguish the Indian titles to lands lying within state boundaries, the agreement with Georgia being of particular interest. April 24, 1802, Georgia had ceded to the United States lands lying south of Tennessee and west of the Chattahoochee river, and in return, in addition to a cash payment, the United States had agreed to extinguish the Indian title whenever the same could be done on peaceable and reasonable terms. With this contract as a basis, Georgia—and adjoining states took similar action—were persistent in their demands that the Indian lands should be vacated. In view of the slow progress of the negotiations with the Cherokees in particular, who inhabited some of the best portions of Georgia, the latter state in time coupled with its demands threats that if the federal authorities did not remove the Indians the state would take matters in its own hands and expel the Indians. South Carolina in 1810 had asked Congress to extinguish the Cherokee titles in that state, the result of which was the Cherokee cession to South Carolina, made by the treaty of March 22, 1816, followed by the treaty of July 8, 1817, by which the Cherokees exchanged, for lands in Arkansas, their lands in North Carolina and a portion of those in Georgia. In the negotiations for the latter treaty there developed an opposition of a large number of the Cherokees to disposing of their eastern lands, and the signers of the treaty embraced only part of chiefs and headmen. Immediately after the conclusion of the treaty, and while several thousand Cherokees were preparing to move beyond the Mississippi, there arose the factional division among the Cherokees that continued a source of irritation and strife for many years. Those who favored emigration were subjected to much persecution before they had left their old homes, and it became necessary for the government to take measures to protect the emigrating parties.

About this time the white settlers of Georgia and adjoining states, perceiving the determination of the greater part of the Cherokees to remain, grew more urgent that the Indians be removed. All efforts

to convince the Indians that their best welfare lay in emigration were in vain. Instead of being able to secure a general cession of Cherokee lands, the commissioners had to rest content with the treaty concluded February 27, 1819, by which the United States obtained lands in area proportionate to the number of Cherokees who had gone west after the treaty of 1817.

Georgia now charged the federal government with bad faith, since only a small part of the relinquished Indian titles were located in Georgia, whereas Tennessee had gained a large area of free land by the recent treaties. The Cherokees, on the other hand, took a determined stand upon their rights, and in reply to the commissioners sent to treat for their lands said: "We beg leave to present this communication as a positive and unchangeable refusal to dispose of one foot more of land." When the failure of these negotiations became known in Georgia, Governor Troup of that state addressed a communication to the secretary of war (February 28, 1824), in which he declared that Georgia was determined at all hazards to become possessed of the Cherokee domain, that if the Indians persisted in their refusal to yield, the consequences would be that the United States must either assist the Georgians in occupying the country which was theirs by right, or, in resisting the occupation, to make war upon and shed the blood of brothers and friends. President Monroe responded to this threatening language in a message to Congress, in which it was shown that since the date of the compact of 1802 the government had succeeded in extinguishing the Indian title to over fifteen million acres within the boundaries of Georgia, obtained by treaties with the Creeks and Cherokees; and, further, that the compact of 1802 did not invalidate the Indian title, and that the United States could not use force in removing the Indians when it was stipulated that it should be done "peaceably and on reasonable conditions."

Matters were now approaching a climax. The order of the president to remove all intruders from the Indian lands was sufficient to rouse the Georgians to armed resistance, and in order to maintain the dignity and power of the federal government, it became a problem, without precedent in the history of the nation, how far the United States might go in enforcing a law the violation of which had within a single state been prescribed by a legislative act of that state. The danger of the situation was increased by the act of the Cherokee convention at New Echota, July 26, 1827, in adopting a constitution which declared their sovereignty and independence as one of the distinct nations of the earth.[4]

In 1828 the treaty with the western

[4] The arguments advanced at this time by a committee of the Georgia legislature relative to Indian land tenure should be noticed, since they have been repeated in various forms in more recent years in the history of Indian Territory. The committee asserted that anterior to the Revolutionary war the Cherokee lands in Georgia belonged to Great Britain, and that the possession by the Indians was permissive only, their title being temporary and they being mere tenants at will, the tenancy being subject to termination either by force or negotiation at the pleasure of the superior power. Upon the close of the Revolution, Georgia assumed all the rights and powers in relation to lands and Indians in question previously belonging to Great Britain, and was now at full liberty and had the power and right to possess herself, by any means she might choose, of the lands in dispute, and to extend over them her authority and laws. A final appeal was now made to the federal government to open negotiations with the Cherokees on this subject. Should the Indians still refuse to negotiate, they were solemnly warned of the unfortunate consequences likely to follow, as the lands *belonged* to Georgia, and that she *must* and *would* have them.

Cherokees was negotiated, providing for their removal from Arkansas to their new homes in the Indian country, and at the same time offering inducements for the consolidation of the eastern bands with those already in the west. The agent of the eastern Cherokees was instructed to use all means within his power to effect the removal, especially of those living in Georgia. At the same time the general government changed its policy with regard to removal. Either by the logic of the arguments adduced that removal meant the ultimate welfare of the tribes concerned, or by the exigencies of the relations with a single state, the government was forced to abandon its position in maintaining the federal authority over state laws, and adopted the easier plan of removing the Indians from the danger zone. President Jackson's views on the subject were found to be very different from those entertained by his predecessors. A delegation of eastern Cherokees went to Washington early in 1829 and appealed to the government for protection against the extension of Georgia's jurisdiction over their reservation. To this request the president replied that they "must yield to the operation of those laws which Georgia claims and has a right to extend throughout her own limits," or else remove beyond the Mississippi, "carrying along with you that protection which, there situated, it will be in the power of the government to extend."

Successive efforts to negotiate with the eastern Cherokees had failed, and the general government and the state of Georgia were now combined in devising expedients to compel the acquiescence of the Indians in the demands for emigration. Annoyed and harassed by official delegations, in constant fear of hostile encroachment from the advancing white settlers, and with all progress and improvement suspended by the uncertain status of their tenure of lands, the Cherokees remained obstinately in their old homes, relying upon the justice of their claims and upon the strong sympathy which was expressed in many quarters of the United States for this unfortunate people.

Determined to test the constitutionality of the hostile legislation of Georgia, application was made at the January term, 1831, of the United States supreme court, by John Ross, as principal chief of the Cherokee Nation, for an injunction against the state of Georgia. The application was based on the theory that the Cherokee Nation was a sovereign and independent power in the sense of the language of the second section of the third article of the constitution of the United States, providing for judicial jurisdiction of cases arising between a state, or the citizens thereof, and foreign states, citizens or subjects.

At the January term of the supreme court, 1831, Chief Justice Marshall delivered his opinion in the Cherokee case, in which the status of the Indian in the body politic is considered.

With the proposition, maintained by the Cherokee counsel, that the Cherokee Nation is a state, a distinct political society, separated from others, capable of managing its own affairs, and governing itself, the court agreed. "The acts of our government," says the court, "plainly recognize the Cherokee Nation as a state, and the courts are bound by those acts."

The supreme court was unwilling, however, to uphold the contention of the counsel that the Cherokees constituted a foreign nation. "They may more correctly perhaps be denominated domestic dependent nations. They occupy a territory to which we assert

a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian. They look to our government for protection, rely upon its power, appeal to it for relief to their wants, and address the president as their Great Father."

The court believes the status of the Indians, in their relations with the federal government, is defined in that clause of the Constitution that empowers Congress to "regulate commerce with foreign nations, among the several states, and with the Indian tribes." Here are distinguished three contra-distinct classes, and within the meaning of the Constitution the Indian tribes could not be called "foreign nations." On this ground the majority of the court held "that an Indian tribe or nation within the United States is not a foreign state in the sense of the Constitution, and cannot maintain an action in the courts of the United States." Hence, concludes the court, "if it be true that the Cherokee Nation have rights, this is not the tribunal in which those rights are to be asserted. If it be true that wrongs have been inflicted, and that still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future. The motion for an injunction is denied."

The failure of the plea for injunction before the federal supreme court had not been conclusive as a test of the sovereignty of the Cherokee Nation. Georgia had in the meantime continued to enact laws designed to be oppressive to the Indian tribes and as coercive measures for their removal from the state. One of these laws required all whites residing in the Cherokee Nation within the chartered limits of Georgia to take an oath of allegiance to the state, and made it an offense punishable by four years' imprisonment to refuse to do so. Under this law two missionaries, Worcester and Butler, were indicted by a state court for residing without license in that part of the Cherokee country attached to Georgia. Worcester's case was made a test case, and after he had been tried and convicted to four years in the penitentiary by the state court the case was carried to the United States supreme court, where the opinion was delivered which has been reviewed on former pages, as a result of which the judicial department of the government was squarely opposed to the policy of Indian administration as then being carried out by President Jackson and his associates.

Jackson in his message of December, 1830, interpreted the relations of the states and the Indians and laid a basis for administrative action. "It is a duty," declared the president, "which this government owes the new states, to extinguish as soon as possible the Indian title to all lands which Congress has included within their limits. When this is done the duties of the general government in relation to the states and Indians within their limits are at an end. The Indians may leave the state or not, as they choose. . . . The states have a right to demand [the extinguishment of title]. It was substantially a part of the compact which made them members of our confederacy. With Georgia there is an express contract; with the new states, an implied one, of equal obligation. Why, in authorizing [various new states] to form constitutions, did Congress include within their limits extensive tracts of Indian lands? Was it not understood by both parties that the power of the states was to

be co-extensive with their limits, and that with all convenient dispatch the general government should extinguish the Indian title?"

The administration clearly favored the states in their contention against the Indians. In the report of the secretary of war, December, 1830, is related concerning the visit to the Choctaws in Mississippi the preceding summer and the conclusion of treaties. "We told them the opinion entertained by the government as to the authority of Mississippi to extend over them her laws; and that the United States possessed not the power to prevent it, and could not. . . . Arguments were the means employed. No threat was used." Under these circumstances a treaty was concluded, more than five thousand Indians being in attendance at the time. Some objected and were dissatisfied, not as regards the general policy of treating, but because they believed themselves entitled to obtain large reservations.

Commenting on some reports and recommendations before the house of representatives—to induce the Indians to cross the Mississippi and make new locations on lands "which the United States will forever secure and guarantee to them," with a "reversionary interest." however, to the United States—the editor of Niles Register (March 20, 1830) states his opinion that "the argument seems to begin and end with *power*—originally to claim, and now to possess the right of the soil. . . . There is no necessity for hastening a decision upon [the difficult and perplexing Indian question]—year after year those difficulties would become less. . . . Such is the condition of this people in Georgia, Alabama, etc., hemmed in by the whites, that they must and will rapidly decrease in numbers, unless advancing in the arts of civilized life." The former alternative, it seems to the editor, is the general destiny of this people.

In his special message of February 22, 1831, the president enters upon a defense of his general policy in regard to the Indians—an argument (comments the North American Review) "one of the least successful attempts to make the worse appear the better reason, that we have ever met with."

The Review then summarizes the situation as follows: The treaties between the United States and Cherokee Indians recognize these Indians as a nation, guarantee to them the exclusive possession of and jurisdiction over the territory marked out in the treaties, declare that they are not under the jurisdiction of any state, stipulate that citizens of the United States shall not settle on their territory or enter it without a passport, and finally state, as one of the objects of these arrangements, the establishment by the Cherokees of fixed laws and a regular government, and the preservation of their national existence. These treaties are sixteen in number, beginning with that of Hopewell, concluded under the old Confederation in 1785, and ending with that of Washington, concluded in 1819. The act of 1802 was passed for the purpose of carrying into effect the provisions of these and other Indian treaties. It states, among other things, that "it shall be lawful for the president to take such measures and to employ such military force as he may judge necessary to remove from lands belonging to, or secured by treaty to any Indian tribe, any citizen who shall make a settlement thereon." Instead of carrying into effect the provisions, instead of employing military force to remove the citizens who had intruded upon the territory of the Chero-

kees under a pretended authority from the state of Georgia, the president (so charges the writer in the Review) actually removed the troops that had previously been stationed in the Indian territory (Georgia), and has used, and is still using all the means in his power to remove the Indians themselves.

The president based his actions in this matter on the following reasons:

1. The clause respecting the employment of military force is not imperative.

2. The act provides, that "nothing therein contained shall be so construed as to prevent any trade or intercourse with the Indians living on lands surrounded by settlements of citizens of the United States, and being within the ordinary jurisdiction of the individual states." This provision the president interprets as "prospective in its operation, and as applicable, not only to Indian tribes, which at the time of the passage of the act were subject to the jurisdiction of a state, but to such also as should thereafter become so. As soon, therefore, as Georgia had extended her jurisdiction over the Indians within her limits, orders were given to withdraw from the state the troops which had been detailed to prevent intrusion upon the Indian lands within it, and these orders have been executed."

The logic of the policy adopted by the Jackson administration for the removal of the Indians beyond the jurisdiction of the several states did not pass unattacked. The "Vassalborough Memorial," from the inhabitants of that town in Maine, prayed that the Congress should extend protection over the Indian tribes, and the Cherokees in particular, against the usurpation of state governments. The memorial reviews the Hopewell treaty of 1785, by which the United States guaranteed the Cherokees the entire control and possession of all the lands defined by the treaty. In the thirteen treaties made subsequently, in all the Indians were acknowledged to be an independent people, and sole and exclusive owners of all lands not voluntarily relinquished. The words of Washington were quoted from a treaty with the Senecas in 1790. "In future," said he, "you cannot be defrauded of your lands; you possess the right to sell, and the right of refusing to sell your lands"; "and the United States will be true and faithful to their engagements." The memorialists, in noting the recent extension of state laws over the Indians, and the activity of the general government in dispossessing the tribes of their guaranteed homes, saw in such action "the knell of departed national virtue" and "a gross and palpable violation of public faith."

Similar memorials to Congress, imploring a "vindication of the national character" and protesting against the course adopted by the administration, were presented by citizens from Massachusetts, Pennsylvania and New Jersey. (Senate Documents, 2d Sess. 21st Cong.)

In the report of Secretary of War Lewis Cass, dated Nov. 21, 1831, attention is called to the fact that the government has decided, whether rightly or wrongly, that it has no power to interfere between the exercise of the state's laws over the Indian residents. Therefore the Indians now have, says the secretary, the alternative of remaining in their present positions, or of migrating to the country west of the Mississippi. If the former, they must either retain all those institutions which constitute them a peculiar people, socially and politically, or they must become a portion of that great community which is gathering round

them, responsible to its laws, and looking to them for protection.

The removal of the tribes beyond the Mississippi attracted attention from de Tocqueville, in his "Democracy in America." He was collecting material for this work during the second administration of President Jackson, and from his observations he thus described the transfer of the Indians from the states (Quoted in Benton's "Thirty Years' View," pp. 691-2):

"The ejectment of the Indians very often takes place, at the present day, in a regular, and, as it were, legal manner. When the white population begins to approach the limit of a desert inhabited by a savage tribe, the government of the United States usually dispatches envoys to them, who assemble the Indians in a large plain, and having first eaten and drunk with them, accost them in the following manner: 'What have you to do in the land of your fathers? Before long you must dig up their bones in order to live. In what respect is the country you inhabit better than others? Are there no woods, marshes, or prairies, except where you dwell? And can you live nowhere but under your own sun? Beyond those mountains which you see at the horizon—beyond the lake which bounds your territory on the west—there lie vast countries where beasts of chase are found in great abundance. Sell your lands to us, and go and live happily in those solitudes.'

"After holding this language, they spread before the eyes of the Indians firearms, woolen garments, kegs of brandy, glass necklaces, bracelets of tinsel, ear-rings, and looking glasses. If, when they have beheld all these riches, they still hesitate, it is insinuated that they have not the means of refusing their required consent, and that the government itself will not long have the power of protecting them in their rights. What are they to do? Half convinced, half compelled, they go to inhabit new deserts, where the importunate whites will not permit them to remain ten years in tranquillity. In this manner do the Americans obtain, at a very low price, whole provinces, which the richest sovereigns in Europe could not purchase."

These paragraphs aroused indignation among the supporters of the Jackson administration. Senator Benton in particular marked them for refutation as soon as the book appeared, and with the skill of the partisan debater collected evidence to contradict the statements; perhaps not with complete success as far as the essential facts were concerned, though he succeeded in presenting other viewpoints and much statistical proof that the removal was for the economic good of both parties concerned, and was undertaken at comparatively great sacrifice on part of the government. From a table prepared at his request,[5] Senator Benton showed that the United States had paid to the Indians eighty-five millions of dollars for land purchases from 1789 to 1840. The aggregate sum paid for this purpose up to 1850, about ninety millions, was, said Benton, nearly six times as much as was paid for the entire Louisiana purchase, and nearly three times as much as Louisiana, Florida and California cost. To the Creeks alone had been paid an amount greater by seven million dollars than France had received for Louisiana. Fifty-six millions had been paid to the four great southern tribes—Creeks, Cherokees, Choctaws and Chickasaws—for the lands ceded by them. And besides this the government maintained a special department to look after the interests of the Indians, and by numerous regulations and by a large body of superintendents, agents and other officials

[5] 1st Sess., 26th Cong., Sen. Doc. No. 616.

exercised extreme care for the welfare of these wards. Having recited this unexampled generosity on the part of the government, Benton then endeavors to discredit (though he does not disprove or deny), the description of the methods used in securing the treaties and land cessions. "How unfortunate, then, in M. de Tocqueville to write, that kegs of brandy are spread before the Indians to induce them to sell their lands. How unfortunate in representing these purchases to be made in exchange for woolen garments, glass necklaces, tinsel bracelets, ear-rings and looking glasses! What a picture this assertion of his makes by the side of the eighty-five millions of dollars at that time actually paid to those Indians for their lands, and the long and large list of agricultural implements—long and large list of domestic animals and fowls —the ample supply of mills and shops, with mechanics to work them and teach their use—the provisions for schools and missionaries, for building fences and houses, . . . which are to be found more or less in every treaty with every tribe emerging from the hunter state. . . . Great is the wrong and injury which the mistake of this writer has done to our national character abroad, in representing the United States as cheating and robbing these children of the forest."

In the early months of 1830 the subject of Indian colonization was before Congress for final settlement. The bill being considered was looked upon as a test of the strength of the parties upon this question. The bill passed the senate by a vote of 28 to 20, and on May 26 passed the house by the close vote of 102 to 97. The debates on the bill excited much interest, and long and strong speeches were made on both sides.

The "act of May 28, 1830," as it became known, was considered the first efficient step toward settling the policy of colonizing the Indians.[6] The first section authorized "the president of the United States to cause so much of any territory belonging to the United States west of the river Mississippi, not included in any state or organized territory, and to which the Indian title had been extinguished, as he might judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as might choose to exchange the lands where they then resided, and remove there, and to cause each of said districts to be so described by natural or artificial marks as to be easily distinguished from every other." Section second authorized the president "to exchange such districts with any tribe then residing within the limits of any of the states or territories." And by the third section it was "lawful for the president solemnly to assure the tribe or nation with which the exchange should be made, that the United States would forever secure and guarantee to them and their heirs and successors the country so exchanged with them; and if they preferred it, the United States would cause a patent to be executed to them for the same."

The secretary of war, in his report of November, 1832, reviewing Indian affairs, analyzes the provisions of the act of May 28, 1830. That act created a barrier, he states, beyond which the dispersed remnants of our various Indian tribes may be collected and preserved. It is a solemn national declaration, containing pledges, which neither the government nor the country will suffer to be violated. It secures to the Indians forever the undisputed possession

[6] McCoy, "Baptist Indian Missions," p. 400.

and control of the region allotted to them. No similar attempt has ever been heretofore made, and therefore no unfavorable deductions can be drawn from the failure of preceding efforts. No organized government exists, or can exist, to assert jurisdiction over these tribes, and treaties of cession are incompatible with the whole basis of the plan of settlement.

The missionary, McCoy, was among those who upheld the policy of removal, and from motives of sincere desire for the permanent welfare of the Indians. In 1832 he published an address, in which is stated in apt terms the strongest argument from a political standpoint for the removal: "All Indian tribes which now reside or ever have resided east of the Mississippi, are, or have been, within the claims of some state or territory of the United States. *Here* [Indian Territory] no such claim exists. Hitherto the several tribes have not been united to one another, nor to the United States. *Here* they are to be united in one common bond of civil community, and constituted an integral part of the United States. Consequently, in the absence of all claims, excepting those of the United States, their rights to the soil can be made as secure as are those of other citizens within the United States and territories; for they may hold their lands by the same tenure. . . . United States' troops may be necessary to prevent impositions upon them by lawless persons from among ourselves, and to defend our frontiers against occasional injuries by war parties from remote tribes; but not to preserve peace among those who are, or shall be located within the territory. *Here* it will be their interest to be at peace among themselves. *United in one community,* war among themselves would be as unnatural as war between so many counties of one of our states. Here arrest and punishment for violence to each other's persons, or depredations upon their property, can be exercised with the same salutary effects as in our states and territories."

Concerning the progress in removing the tribes beyond the Mississippi, the report of the Indian Bureau of November, 1831, stated that the Indians of the Choctaw tribe were already in motion, and it was estimated that about 5,000 would emigrate before winter. "Sanguine expectations may be indulged that the whole nation will be moved within the time (three years) prescribed by the treaty.

"The Chickasaw Indians," continues this report, "who are disposed to follow their friends and neighbors, the Choctaws, and to reside near them have not yet been provided with suitable lands. For the purpose of procuring such for their accommodation it became necessary to effect an arrangement with the Choctaws for a cession of a portion of their country in the west."

Regarding the Cherokees, the report states the continued refusal of the chiefs to accept the propositions of the government. But recently the department had attempted to revive emigration under the provisions of the treaty of 1828. The Creek Indians were in the same predicament, and showed no inclination to relieve themselves from the difficulties of residence among the whites by accepting the offers of the government.

By November, 1832, the office of Indian affairs had only little progress to report in the removal of the southern tribes. About 630 Cherokees had gone to their allotted lands in the Indian country during the summer, but the people as a whole were held back by the influence of the chiefs, though it was claimed that a change of sentiment was going on, more favorable to the government's policy. Among the

other tribes no definite movements to the west were reported, the matter being still in a state of negotiation with the Creeks, Seminoles and Chickasaws.

The secretary of war reported in December, 1833: "From the reports which have been made to the department it appears that about 15,000 individuals of this [the Choctaw] tribe have been removed."

Under date of November 12, 1835, the commissary general of subsistence, in his capacity as superintendent of Indian emigration, said: "The efforts to effect Indian emigration have, during the past year, met with no very encouraging success; yet they have been most strenuous. No proper expedient has been left untried to accelerate the departure for their destined homes of the tribes east of the Mississippi." Elsewhere he states: "No removal of the Florida Indians has been effected, whilst the Creeks have funished but a very insignificant body of emigrants. Only a few families of the Cherokees have gone west; and of the other tribes with whom there are treaty stipulations for emigration, none have yet redeemed the pledge, freely given, to exchange their eastern for a trans-Mississippi residence."

One of the principal obstructing causes assigned for the delay in the removal was the influence of the Indian traders, who exercised a great power over the Indians, who were usually in debt to these traders. The annuities were often paid almost directly from the government agents to the traders.

The report of the office of Indian affairs for 1835 summarizes the status of Indian emigration. Since September 30, 1834, the number of Indians who had emigrated to their allotted lands in the Indian country were the following: Quapaws, 176; Creeks, 630; Seminole and other Florida Indians, 265; Cherokees, 48. Of the Choctaws, only 3,500 remained east of the Mississippi. Only a small proportion of the Creeks were as yet in their new homes, the total being given as 3,089, while 22,000 of them were still east of the Mississippi. The western band of the Cherokees by this time numbered 6,000, while ten thousand clung tenaciously to their old homes under the leadership of such men as John Ross. Only 265 of the Seminoles had reached their new homes, those in Florida being 3,500.

The following table from the report of the Indian commissioner in 1836 affords a definite view of the movement of the Indians up to that time.

	No. of the tribe originally for emigration.	No. removed prior to Sept. 30, 1835.	No. removed since last report.	No. emigrant Inds. now west of Mississippi.	No. to be removed hereafter.
Choctaws	18,500	15,000	.....	15,000	3,500
Quapaws	476	176	300	476	.....
Creeks	22,000	3,089	14,805	17,894	4,106
Florida Ind.	3,765	265	407	672	3,093
Cherokees	22,000	6,048	24	6,072	15,928
Senecas from Sandusky	251	251	.....	251	.....
Senecas and Shawnees	211	211	.....	211	.....

The Indians reported in December, 1837, as having been moved beyond the Mississippi were as follows:

Chickasaws	549
Choctaws	15,000
Quapaws	476
Creeks	20,437
Seminoles	407
Appalachicolas	265
Cherokees	7,911
Kickapoos	583
Delawares	826
Shawnees	1,272
Ottawas	374
Weas	222
Piankeshaws	162
Peorias and Kaskaskias	132
Pottawotomies of Indiana	53
Chippewas, Ottawas, Pottawotomies	2,191
Senecas	251
Senecas and Shawnees	211
	51,327

In his report of November 1, 1838, the commissioner of Indian affairs tabulates the results of Indian removal as follows:

	No. for emigration originally.	No. removed prior to last annual report.	No. removed since last annual report.	No. of emigrating Indians west of Mississippi.	No. now to be removed.	No. now under subsistence west.
Choctaws	18,500	15,000	177	15,177	3,323	.....
Creeks	22,000	20,487	4,106	24,543	750	4,106
Florida Indians	3,765	1,079	1,951	2,730	335	1,951
Cherokees	22,000	7,911	*15,000	25,911	.....	*15,000
Chickasaws	5,000	.....	4,600	4,600	400	4,600

* Including parties now on route.

The decision of the supreme court in the Worcester case failed of effect so far as regarded Georgia's relations with the Cherokee Indians. The governor defied the summons that the missionary be released, and he was kept in prison for over a year, so that he could say with truth, when he died in the Cherokee Nation some years later (in 1859), that he had endured chains, imprisonment and exile for their sake. In the meantime the persecution of the Cherokee people had continued. Bands of armed men invaded their country, forcibly seizing horses and cattle, taking possession of houses from which they had ejected the occupants, and assaulting the owners who dared to make resistance.

Despite these circumstances which rendered the lot of the Cherokees one of constant danger, the government was unable to prevail upon them to accept the proposed terms of emigration. They finally consented to a further limitation of their lands, but Georgia refused to assent. In August, 1834, at a council meeting the question of removal was debated, and a new sentiment was introduced among the Indians favorable to emigration. John Walker, who took the leading part in advocating the emigration, while returning to his home from the council, was assassinated from ambush. Being a man of superior education and of influential connections, his murder created great excitement. This was the first of a long series of killings that resulted from the feuds of the Cherokees growing out of this political question of emigration. The Cherokees were now nearly worn out by constant battle against a fate from which there seemed no hope of escape. "In February, 1835,[*] two rival delegations arrived in Washington. One, the national party, headed by John Ross, came prepared still to fight for home and national existence. The other, headed by Major John Ridge, a prominent subchief, despairing of further successful resistance, was prepared to negotiate for removal. Rev. J. F. Schermerhorn was appointed commissioner to arrange with the Ridge party a treaty to be confirmed later by the Cherokee people in general council. On this basis a treaty was negotiated with the Ridge party by which the Cherokees were to cede their whole eastern territory and remove to the west in consideration of the sum of $3,250,000, with some additional acreage in the west and a small sum for depredations committed upon them by the whites. Finding that these negotiations were proceeding, the Ross party filed a counter proposition, for $20,000,000, which was re-

[*] James Mooney, "Myths of the Cherokee," 19th annual report B. A. E.

jected by the senate as excessive. The Schermerhorn compact with the Ridge party, with the consideration changed to $4,500,000, was thereupon completed and signed March 14, 1835, but with the express stipulation that it should receive the approval of the Cherokee Nation in full council assembled before being considered binding. This much accomplished, Mr. Schermerhorn departed for the Cherokee country, armed with an address from President Jackson in which the great benefits of removal were set forth to the Cherokees. Having exhausted the summer and fall in fruitless effort to secure favorable action, the reverend gentleman notified the president, proposing either to obtain the signatures of the leading Cherokee by promising them payment for their improvements at their own valuation, if in any degree reasonable, or to conclude a treaty with a part of the nation and compel its acceptance by the rest. He was promptly informed by the secretary of war, Lewis Cass, on behalf of the president, that the treaty, if concluded at all, must be procured upon fair and open terms, with no particular promise to any individual, high or low, to gain his aid or influence, and without sacrificing the interest of the whole to the cupidity of a few. He was also informed that, as it would probably be contrary to his wish, his letter would not be put on file.

"In October, 1835, the Ridge treaty was rejected by the Cherokee Nation in full council at Red Clay, even its main supporters, Ridge himself and Elias Boudinot, going over to the majority. . . . During the session of the council, notice was served on the Cherokees to meet commissioners at New Echota in December following for the purpose of negotiating a treaty. The notice was also printed in the Cherokee language and circulated throughout the nation, with a statement that those who failed to attend would be counted as assenting to any treaty that might be made. . . .

"Although for two months threats and inducements had been held out to secure a full attendance at the December conference at New Echota, there were present, when the proceedings opened, according to the report of Schermerhorn himself, only from three hundred to five hundred men, women and children, out of a population of over 17,000. Notwithstanding the paucity of attendance and the absence of the principal officers of the nation, a committee was appointed to arrange the details of a treaty, which was finally drawn up and signed on December 29, 1835." The instrument was signed by William Carroll of Tennessee and J. F. Schermerhorn and by twenty Cherokees, among whom the most prominent were Major Ridge and Elias Boudinot. Neither John Ross nor any of the officers of the nation were represented.

Two delegations of Cherokees accompanied the commissioners who negotiated the treaty of 1835 on their return to Washington. The delegation from the majority declared that the treaty had not been made with the Cherokee Nation, or by its authority, but with a small, unauthorized minority. "Both delegations of Cherokees," says McCoy, "were composed of men of sound judgment, and both were averse to removal. The party which had signed the treaty said they had acted under the influence of necessity in choosing between two evils which hung over their nation. Notwithstanding their removal was a severe oppression, they believed that far greater evils would follow if they refused to go. The majority appeared to rely upon the intrinsic justness of their cause. They made good their plea

by exhibiting the names of many thousands who declared the treaty to have been unauthorized."

The weight of proof was against the authenticity of the treaty, and yet the government had to ratify the treaty or permit the worse alternative of allowing the Cherokees to be driven out of their country by the irritated citizens of Georgia, and thereby suffer unnumbered cruelties and perhaps perish altogether. It was a case where state's rights and power practically nullified the jurisdiction of the federal government. The public opinion of Georgia was strongly set against the continued residence of the Cherokees, and in the disastrous conflict of state and federal authority in maintaining the rights of the Indians, the latter would have been the chief sufferers. So that removal from the state, despite the sympathy of a large portion of the country for the oppressed Indians, was forced as a solution that can be considered both politic and humane.

Opposition to ratification of the treaty with the Cherokees in 1835 lacked only one vote of being successful. Benton ("Thirty Years' View") says: "The discontented party of the Cherokees, and the intrusive counsellors, and party spirit, pursued it [the treaty] to Washington city, and organized an opposition to it, headed by the great chiefs then opposed to the administration of General Jackson—Mr. Clay, Mr. Webster and Mr. Calhoun. Immediately after the treaty was communicated to the senate, Mr. Clay presented a memorial and protest against it from the 'Cherokee Nation,' as they were entitled by the faction that protested; and also memorials from several individual Cherokees; all which were printed and referred to the senate's committee on Indian affairs. . . . The examination was long and close, . . . and assuming very nearly a complete party aspect. On the 18th of May Mr. Clay made a motion which, as disclosing the grounds of the opposition to the treaty, deserves to be set out in its own words. It was a motion to reject the resolution of ratification, and to adopt this resolve in its place: 'That the instrument of writing, purporting to be a treaty concluded at New Echota on the 29th of December, 1835, between the United States and the chiefs, head men and people of the Cherokee tribe of Indians, and the supplementary articles thereto annexed, were not made and concluded by authority, on the part of the Cherokee tribe, competent to bind it; and, therefore, without reference to the terms and conditions of the said agreement and supplementary articles, the senate cannot consent to and advise the ratification thereof, as a valid treaty, binding upon the Cherokee tribe or nation'; concluding with a recommendation to the president to treat again with the Cherokees east of the Mississippi for the whole, or any of their possessions on this side of the river. The vote on this resolve and recommendation was, 29 yeas and 15 nays; and it requiring two-thirds to adopt it, it was, of course, lost." But the vote was a test of strength and alarmed the friends of the treaty, who finally saved the treaty with only one vote to spare.

In addition to the five million dollars paid the Cherokees as full value for their lands, by the treaty of December, 1835, Congress, June 12, 1838, appropriated $1,147,067, as an additional payment, being really a reward for removing, constituting a sum from which the expenses of removal should be drawn. Commenting on this and other features of the removal, the commissioner of Indian affairs in his report of November

25, 1838, says that "the case of the Cherokees is a striking example of the liberality of the government in all its branches. By the treaty they had stipulated to remove west of the Mississippi within two years from its ratification, which took place on the 23d of May, 1836. The obligations of the United States, state rights . . . made a compliance with this provision of the treaty indispensable at the time stipulated or as soon thereafter as it was practicable without harshness. To insure it General Scott was despatched to their late country, and performed a delicate and difficult duty. . . . Early in the past season several parties had been despatched to the west . . . amounting to 6,000. . . . The preparations for the removal of those who remained being in progress, John Ross and other chiefs . . . proposed to the commanding general that the entire business of emigration should be confided to the nation." This request that the Cherokees might manage their own removal was granted by General Scott. The agreement was that all the Cherokees should be collected and started on the way during the months of September and October. The estimate submitted by the chiefs put the cost of the removal of one thousand souls at $65,880. This was deemed extravagant by General Scott, whose comment deserves quoting: "Take the principal item or basis of your calculation, one wagon and five saddle horses for every twenty souls. I have already consented, with a view to lighten the movement by land, that all the sick, the crippled and superannuated of the nation, should be left at the depots until the rivers be again navigable for steamboats. . . . Deducting the persons just mentioned, I am confident that it will be found that among every thousand individuals, taken in families without selection, there are at least five hundred strong men, women, boys and girls, not only capable of marching twelve or fifteen miles a day, but to whom the exercise would be beneficial. . . . " Nevertheless, the Indians not only insisted on their original estimate, but included an additional item of "soap," three pounds being considered necessary for every hundred rations. As the Cherokees were using their own money to pay for the removal, the general approved their estimates.

"Throughout their collection and emigration, so far as this office is informed, the Cherokees have manifested proper temper, and an inclination to do whatever was required, with fewer exceptions than might have been expected. . . . The latest advices give assurances that the last of the Cherokees would be on the road early in November [1838]. It has been estimated that 12,000 will be removed by John Ross and the other chiefs, which, added to the number that had emigrated previously during the year, believed to be about 6,000, will give an aggregate of 18,000 Cherokees who have ceased to live east of the Mississippi during the spring, summer and autumn."

In June, 1839,[9] the Cherokees of all parties held a council at their new council house at Takuttokah. The whole nation were invited and about six thousand attended, for the purpose of reconciling all differences

[9] The sources for the following events are Sen. Doc. 1st Sess., 26th Cong., Vol. I; Sen. Doc., 1st Sess., 26th Cong., Vol. VI; Sen. Doc., 2nd Sess., 26th Cong., Vol. I.

[10] June 21, 1839, John Ross and others addressed the following explanation to the United States official in the country: "We regret to say that the reasonable propositions submitted to the consideration of our western brethren have not been received by them in a manner compatible with the

and to form a government for the whole Cherokee Nation. Nothing, however, was effected. The old settlers contended that, as their government was elective, the new emigrants would be entitled to vote for officers at the next general election and when vacancies should occur, which they conceived to be a fair participation in the government. The late emigrants wished[10] to have a convention called for the purpose of framing a new constitution for the government of the nation, which was objected to on the part of the old settlers, and the council broke up without result.

On June 22, three of the most influential members of the Ridge or treaty party were cruelly murdered, evidently at the hands of some of Ross's adherents. The victims were Major John Ridge, his son John Ridge, and Elias Boudinot. The killing of Boudinot was especially treacherous. On the morning of the crime he was assisting some workmen in building a new house. Three men called upon him and asked for medicine. He went off with them to the house of a missionary not far distant, where medicines were kept. On the way two of the men seized Boudinot and the other stabbed him, after which the three cut him to pieces with their knives and tomahawks. The murder taking place within two miles of the residence of John Ross, his friends were apprehensive it might be charged to his connivance, and some six or seven hundred armed Cherokees gathered around the house of their chief to repel any attack.

The murdered men were members of the Ridge or treaty party, whose activity in behalf of the treaty of 1835 had divided the eastern Cherokees into two factions. The murder of the Ridges was the result of this factional fight among the eastern Cherokees, rather than of the differences arising from the council between the old settlers and the new. When the proposition of the Ross party to form a new constitution was submitted to the convention, the Ridge party joined the old settlers in opposing the measure, and in this way the old bitterness between the treaty and anti-treaty factions was revived and the murders quickly followed.

After the council had adjourned without practical results, Ross announced a national convention of the eastern and western Cherokees at Illinois camp ground (Tahlequah) on July 1, for the purpose of forming a union. The succeeding events throwing the whole nation into excitement and factional disturbance, only certain representatives of the Ross party assembled at the time and place indicated. In the meantime a portion of the old settlers and members of the Ridge party proposed to meet the eastern faction on condition that no Cherokees should be "killed for their former political acts and opinions," (referring to the treaty of 1835), and that a national convention equally represented from both parties, should meet at Fort Gibson. The eastern party did not accept this proposal, but substituted an invitation, dated July 5, and signed by John Ross as principal chief and the officers of the "convention" then sitting at Illinois camp ground, to "John Brown, John Looney and John Rogers, chiefs of

wishes of the whole people. They require the unconditional submission of the whole body of the people who have lately arrived, to laws and regulations, in the making of which they have had no voice. The attempt of a small minority to enforce their will over a great majority contrary to their wishes appears to us to be a course so repugnant to reason and propriety that it cannot fail to disturb the peace of the community and to operate injuriously to the best interest of the nation."

the western Cherokees," to unite with them in efforts to promote the prosperity and happiness of their common country.

All efforts to bring the hostile parties together were futile. A council of the western Indians convened on July 22, and for several weeks communications were interchanged between the council and the "convention," while both bodies addressed General Arbuckle who, with other representatives of the government, was confronted with the delicate task of reconciling the factions and preventing a civil war.

Influences were at work overcoming the obstinate position taken by the old settlers in the matter of government. Their chiefs, John Brown, John Looney and John Rogers, made an appeal to the United States government (August 9, 1839) that they "be sustained in the enjoyment of our rights and in the execution of our laws and that the lives and liberties of all our citizens may be protected." But this caused disapproval among some of the old settlers, who declared that Brown and Rogers should be deposed.[11] The Ross party had been making converts among the opposition, among them being John Looney, one of the signers of the "appeal," but who on August 23 was president of the convention that declared Brown and Rogers deposed from office.[12] But it was claimed that the "eastern Cherokees" whose names were signed to various records and resolutions emanating from the convention really represented only a very small percent of the total number of the old settlers. On August 27 the convention protested against the appeal of the western party to Washington, insisting that, as the differences grew out of questions of merely tribal politics, they were not a sufficient cause for United States interference.

In July the Ross party, in convention at Tahlequah, had published a decree granting amnesty to all who had "exposed and made themselves liable to the penalty of outlawry" provided they appeared before the convention within a certain time to accept this grant of pardon. After the treaty party, in a communication to Washington of August 20, had denounced the murder of the Ridges and Boudinot, this grant of amnesty was again proclaimed by the Ross party, September 4 being the last day on which those guilty of the unspecified offense could appear and take advantage of the clemency of the majority party.

The great offense of those intended to be reached by these proclamations of amnesty was the signing of the treaty of 1835, though that act is not specifically mentioned. The signers of that treaty had alone been singled out for vengeance, and it was claimed that the murders were resolved on

[11] " . . . Whereas, in identifying themselves with those individuals known as the Ridge party, who by their conduct have rendered themselves odious to the Cherokee people, they have acted in opposition to the known sentiments of that portion of the nation known as the old settlers . . .

"Resolved, by us, the undersigned citizens of the Cherokee Nation, known as the old settlers, in council assembled, that the aforesaid John Brown and John Rogers have acted in a manner unworthy of the office of chiefs . . ."

[12] General Arbuckle wrote from Fort Gibson, September 4, 1839: "I visited Fort Smith late in August, and understood, in passing through the Cherokee Nation, that the emissaries of Mr. Ross were passing through the Cherokee country with the object of collecting and bringing to the convention as many of the old settlers as possible; and since my return here, I am informed that John Looney, one of the principal chiefs of the old settlers, has joined the late emigrants. . . . I am of the opinion that Mr. Ross and his adherents have induced so many of the old settlers to join them that the chiefs Brown and Rogers and their friends will not attempt any resistance to the new government. Yet the means which have been employed to establish that government will no doubt long disturb the harmony of the Cherokee Nation . . ."

at the Double Spring council ground in June, 1839, and that those who took the life of John Ridge started from that ground for the express purpose.

The action of part of the old settlers in deposing their two chiefs and in going over to the Ross faction, was a severe blow to the power of the Ridge party, who for a time were in great danger. Outside of those who were not embodied with the Ross adherents, some took refuge in Arkansas, and one chief was reported to have fled to Mexico. It was a situation that threatened not only the internal peace of the Cherokee Nation, but seemed likely to involve the neighboring tribes in war. The border settlers in Arkansas were alarmed, and a concentration of troops was effected to prevent the Indians from disturbing the peace of the white settlements. General Arbuckle and Captain Armstrong were instructed to arrest the murderers of the Ridges, it being held that under the provision of the treaty binding the United States "to protect the Cherokee Nation from domestic strife and foreign enemies," the government had a right to interfere in this factional strife. At the same time all payments of money to the Cherokees were withheld until peace and order should be restored. In every way possible the government brought pressure to effect a reconciliation of the factions. Convinced that the Ross party was responsible for the killing of the Ridges and Boudinot, and that Ross was chiefly to blame for the disorder then existing, the government officials were instructed not to recognize the Cherokee government as established at Tahlequah in September, 1839, and that John Ross must be excluded from official leadership of the nation.

Finally on April 20, 1840, General Arbuckle secured a convention of the two parties at Fort Gibson, and the following day addressed the deputations with an explanation of the principles which the government would insist upon in harmonizing the conflicting elements. Lest the old settlers' party be entirely excluded from the union government, as would happen under strict majority rule because of the preponderance in numbers of the late emigrants, it had been determined, said General Arbuckle, that the old settlers should enjoy in the new government one-third of the officers. The reasons for the government's interference in this matter, and the necessity of excluding Ross and Coodey from office as a means of restoring harmony, were also explained to the deputies of the two parties.

This convention had no results. The eastern Cherokees drew up resolutions in which they expressed complete confidence in all the political acts of their chief, John Ross, and also their protest at the intervention of the general government. But the power of the government was now being felt as an effective instrument for composing the differences. The withdrawal of the annuities was a particular hardship. On May 25 the emigrant party assembled for another discussion, and acceded to the request of General Arbuckle that a deputation of their number should meet a like delegation from the old settlers at Fort Gibson. As a result, following a year of contention, the representatives of the two parties came together at Fort Gibson in June, and adopted the act of union which has since been considered the official covenant between the two branches of this people.

"Whereas our fathers have existed, as a separate and distinct nation, in the possession and exercise of the essential and appropriate attributes of sovereignty, from a period extending into antiquity beyond the records and memory of man, and

whereas these attributes, with the rights and franchises which they involve, remain still in force and virtue, as do also the national and social relations of the Cherokee people to each other and to the body politic, excepting in those particulars which have grown out of the treaties of 1817 and 1819, between the United States and the Cherokee Nation, under which a portion of our people removed to this country and became a separate community. But, the force of circumstances [in this way do they refer to the treaty of 1835] having recently compelled the body of the eastern Cherokees to remove to this country (thus bringing together again the two branches of the ancient Cherokee family), it has become essential to the general welfare that a union should be formed, and a system of government matured, adapted to their present condition, and providing equally for the protection of each individual in the enjoyment of all his rights.

"Therefore, we, the representatives of the eastern and western Cherokees, do hereby solemnly and mutually agree to form the two branches into one body politic, under the style and title of the Cherokee Nation.

"In view of the union now formed, and for the purpose of making satisfactory adjustments of all unsettled business which may have arisen before the consummation of this union, we agree that such business shall be settled according to the provisions of the respective laws under which it originated; and the courts of the Cherokee Nation shall be governed in their decisions accordingly. Also, that the delegation authorized by the eastern Cherokees to make arrangements with Major General Scott for their removal to this country shall continue in charge of that business, with their present powers, until it shall be finally closed. And also, that all rights and title to public Cherokee lands on the east or west of the river Mississippi, with all other public interests which may have vested in either branch of the Cherokee family, whether inherited from our fathers or derived from any other source, shall henceforward vest entire and unimpaired in the Cherokee Nation as constituted by this union.

"It is further agreed, that any moneys due individuals from the United States as per capita, each and every citizen of the Cherokee Nation shall participate equally. And also, that portion of the nation that has constituted the old settlers of this country shall have a just proportion of the officers and representation in the government of the nation for the first constitutional term—that is to say, the assistant principal chief, seven members in the committee, nine members of the council, two associate judges of the supreme court, one circuit judge, two district judges, two executive counselors and two sheriffs; all to be of their own selection and to be chosen by the council of old settlers now in session.

"It is also understood, that all debts and expenses incurred by either branch of the Cherokees, for holding councils, etc., shall be assumed and paid out of the national funds. And it is further agreed that, from and after the signing of this union, the laws of each portion of the Cherokee Nation shall be inoperative excepting so far as already provided for in this union. The constitution, however, adopted at Tahlequah the 6th of September, 1839, and the laws enacted under its provisions, shall be the governing laws of the nation.

"Done at Fort Gibson, the 26th June, 1840.

David Vann,	R. Taylor,
John Burge,	Stephen Foreman,
Turtle Fields,	John Drew,
John S. Boot,	Johnson Foreman,
G. W. Gunter,	David Carter,
Richard Fields,	

On the part of the eastern Cherokees.

Andrew M. Vann,	George W. Adair,
Riley Thornton,	Charles Ruce,
William Rogers,	Broken Canoe,
Thos. L. Rogers,	Lame Glass,
Ezekiel Starr,	Wrinkle Sides,
The Wind,	C. Thornton,

On the part of the western Cherokees."

The substance of this act of union had been adopted by the convention at the Illi-

nois camp ground July 12, 1839, and signed by representatives of both eastern and western Cherokees, though the action on the part of the latter did not represent the sentiment of the majority of the party. The union thus provided for may be considered permanently effective, so far as preventing the disorder and civil dissension that had characterized the relations of the eastern and western Cherokees since the removal of the latter. But the party lines thus established were not obliterated for years, and the fires of factional bitterness smoldered until the Civil war of 1861-65 fanned them into flame, when the Ross party allied itself with the Union and the treaty party, under Stand Watie (a brother of Ridge, who had been murdered) and others, joined the Confederacy.[13]

In November, 1842, the commissioner of

[13] In his report of November, 1844, the commissioner of Indian affairs says: "The dissensions and ill feeling that have so long and injuriously prevailed in the Cherokee Nation have not yet disappeared. . . . It is, perhaps, according to the infirmity of our nature that the majority party, if they are not so tyrannical as they are charged to be, should be more imperious than is agreeable to the other side . . ." Many of the old settlers had been forced to leave their homes and rely on their Arkansas neighbors for protection, while the dissensions between the treaty and Ross factions were increasing, to the extent that the peace of the frontier was endangered, and many of the minority had gone into exile. Matters continued in this way for a year or more, when the government officials succeeded in uniting the three factions by a treaty agreement, by which their various differences were composed or compromised. The conduct of the factions under this treaty was commented on as follows by the commissioner in his report of November, 1846: "The treaty with the Cherokees so far appears to have been productive of the happiest results. All parties seem to have united to carry out in good faith the judicious provisions of the treaty; to forget ancient feuds and past misunderstandings. . . . Since the provisions of the treaty were generally made known in the country not a murder or outrage . . . has been reported."

The treaty of August 6, 1846, was concluded at Washington between three commissioners of the United States and the three factions of the Cherokee Nation, including representatives of what was known as the government party, under John Ross, the treaty party, among whom were George W. Adair and Stand Watie, and the western Cherokees or old settlers, represented by Captain Dutch, John Brown and others. The preamble of the treaty, referring to the existence of serious difficulties between the various factions of the Cherokees, introduces this general principle: "The lands now occupied by the Cherokee Nation shall be secured to the whole Cherokee people for their common use and benefit; and a patent shall be issued for the same." Article 2 states: "All difficulties and differences heretofore existing between the several parties of the Cherokee Nation are hereby settled and adjusted, and shall, as far as possible, be forgotten and forever buried in oblivion. All party distinctions shall cease, except so far as they may be necessary to carry out this convention or treaty. A general amnesty is hereby declared. All offenses and crimes committed by a citizen or citizens of the Cherokee Nation against the nation, or against an individual or individuals, are hereby pardoned. All Cherokees who are now out of the nation are invited and earnestly requested to return to their homes, where they may live in peace, assured that they shall not be prosecuted for any offense heretofore committed against the Cherokee Nation, or any individual thereof." Further, it was declared that hereafter no one should be punished for any crime except on a conviction by a jury, and that fugitives from justice, not included in the general amnesty, should be returned to the Cherokee Nation by the United States authorities.

The fourth article of this treaty affirms the undivided ownership of both the eastern and western Cherokees not only in the lands set apart in the Indian country by the treaty of 1828, but also in those lands retained by the portion of the tribe that remained in the east. The provisions of this article for an equitable interest in the lands of both parties were subsequently quoted in the arguments for and against the inclusion of the Indian Territory in joint statehood. The article asserted that by the treaty of 1828, and in conformity with the general Indian policy, that the old settlers or western Cherokees "had no exclusive title to the territory ceded in that treaty, but the same was intended for the use of, and to be the home for, the whole nation, including as well that portion then east as that portion then west of the Mississippi," and that by the operation of the same principle the western Cherokees also "acquired a common interest in the lands occupied by the

Indian affairs reported that among the Indians still living east of the Mississippi were 1,000 to 1,200 Cherokees in North Carolina, Alabama, Georgia and Tennessee; some Creeks in Alabama; 50 to 250 Chickasaws in Mississippi and a few in Tennessee; from 3,000 to 4,000 Choctaws in Mississippi, and a remnant of Seminoles in Florida.

The process of removing the Indians continued throughout the decade of the forties, some years showing very insignifiant results. Beginning with January, 1845, the removal of the Choctaws who lingered in the state of Mississippi was undertaken, and 1,182 were removed during that year. In November, 1846, the Indian commissioner reported that since the preceding year the emigration of Indians from east of the Mississippi had been: 1,786 Choctaws, 64 Chickasaws, from the state of Mississippi; and 104 Creeks from Alabama. By November, 1847, 19 Creeks, 44 Chickasaws and a few Cherokees had gone voluntarily to their new homes, while 1,623 Choctaws had been removed by the government authorities.

The Choctaws who were removed during 1845-47 were those who, under the provisions of the treaty of Dancing Rabbit Creek (1830), had elected to remain citizens of the states and had accepted individual allotments of lands. Though they did not thereby lose their Choctaw citizenship, they did lose their right to share in the annuities payable to the emigrating Choctaws. Those who remained east of the river eventually, as settlements of whites hemmed them in, experienced the usual unhappy fate of such Indians, and their removal seemed necessary to preserve them from the hostility of the white people and from the destructive effects of contact with white civilization. The removal of the Indians was practically enforced, but the government thereby assumed unnecessary obligations from which the treaty above mentioned had entirely freed it. By converting into cash a part of the Choctaw land scrip that was granted the Indians in lieu of actual allotments, a fund was created for the emigrating Choctaws from the proceeds of which they were placed on a basis of equality with those already in the west, so far as annuity payments were concerned.

The Chickasaws have long been allied with the Choctaws, and there is a tradition that many centuries ago they dwelt together as one people, as they are people of the same Indian stock (Muskhogean). Many Chickasaws have resided on the west side of the Mississippi for a century, joining the Choctaws in their early migrations. In 1805, 1816 and 1818, the Chickasaws ceded all their lands north of Mississippi, and until their final removal to the Indian country the larger portion of the tribe dwelt in Alabama and Mississippi. In 1822 it was estimated that 3,625 Chickasaws remained in the Mississippi territory. Though many Chickasaws had found their way to the Indian country along with their kinsmen, the Choctaws, as a tribe they were not located

Cherokees east of the Mississippi." And owing to the failure of the treaty of 1835 to provide for a settlement of that interest, the western Cherokees were declared to have an equitable claim upon the United States for the value of that interest, the share for per capita distribution among the old settlers being fixed at one-third the whole amount of the residuum intended for that purpose. This treaty also provided an indemnity fund for the treaty party, for their losses growing out of the conflicts between the two parties. The sum of five thousand dollars was to be paid by the United States to the heirs of Major John Ridge, a like sum to the heirs of John Ridge, and also to the heirs of Elias Boudinot, and one hundred thousand dollars was appropriated for the satisfaction of the claims of others of the treaty party who had suffered through their contention with the Ross party.

in the Indian country until the latter thirties. The first treaty looking to their removal was in 1832. The Chickasaws of Alabama and Mississippi, "finding themselves oppressed in their present situation, by being made subject to the laws of the states in which they reside," entered into a treaty, October 20, 1832, by which they ceded all their lands on the east side of the Mississippi and agreed to select lands beyond that river for their permanent home. Pending their removal, they were to select homes in their old country which were to be guaranteed to their possession as long as they desired to live upon them.

Several years of negotiations followed before the Chickasaws succeeded in selecting suitable lands in the Choctaw country. By the treaty at Doaksville, near Fort Towson, January 17, 1837, the Chickasaws were to have the privilege of forming the "Chickasaw district" in the Choctaw country. The boundaries of the original Chickasaw Nation as defined in the treaty mention some interesting features of the geography of the times. The east limit of the district differed somewhat from that later established, and all the country west between the Red and Canadian rivers as far as Texas was granted for the Chickasaw home.[14]

Disputes arose between the Choctaws and Chickasaws as to their respective boundaries, and the treaty of November 4, 1854, defined the Chickasaw district as it was shown on the later maps.[15]

About the same time the Choctaws protested against sharing the net proceeds of the lands ceded them by the treaty of 1830 with their allies, the Chickasaws, and in the treaty by which these dissensions were settled are contained, 1st, a final definition of boundaries of the two tribes, and, 2d, the establishment of the "leased district" west of the 98th meridian. This "leased district" becomes an important geographical division of the later Oklahoma territory. The essential features of this treaty (June 22, 1855) are given below.[16]

[14] The Chickasaw district shall be bounded as follows: Beginning on the north bank of the Red river at the mouth of Island bayou, about eight or ten miles below the mouth of false Washitta; thence running north along the main channel of said Bayou to its source; thence along the dividing ridge between the Washitta and Low Blue rivers to the road leading from Fort Gibson to Fort Washitta; thence along said river to the line dividing Musha-la-tubbee and Push-mata-haw districts; thence eastward along said district line to the source of Brushy creek; thence down said creek to where it flows into the Canadian river, ten or twelve miles above the mouth of the South Fork of the Canadian; thence west along the main Canadian river to its source if in the limits of the United States or to those limits; and thence due south to Red river and down Red river to the beginning.

[15] "It is agreed by the Choctaw and Chickasaw tribes of Indians, in lieu of the boundaries established under the article second of the convention and agreement entered into between said tribes Jan. 17th, 1837, the Chickasaw district of the Choctaw nation shall be bounded as follows: Beginning on the north bank of the Red river at the mouth of Island bayou where it empties into the Red river about twenty-six miles on a straight line, below the mouth of false Washitta, thence running a northwesterly course, along the main channel of said Bayou to the junction of three prongs of said Bayou nearest the dividing ridge between Washitta and Low Blue rivers . . . thence northerly along the eastern prong of Island Bayou to its source; thence due north to the Canadian river, thence west, along the main Canadian, to one hundred degrees of west longitude; thence south to Red river and down Red river to the beginning."

[16] Art. 1. The following shall constitute and remain the boundaries of the Choctaw and Chickasaw country: Beginning at a point on the Arkansas river, one hundred paces east of old Fort Smith, where the western boundary line of the state of Arkansas crosses the said river, and running thence due south to Red river; thence up Red river to the point where the meridian of one hundred degrees west longitude crosses the same; thence north along the said meridian to the main

The history of the removal of the Creek Indians has many points of resemblance with that of the Cherokees. As in the case of the Cherokees, there were the eastern and the western divisions, consisting of those who had gone beyond the Mississippi under the first treaties, and those who delayed in their old homes until forced to remove by the encroachment of the white settlers, and the power of the government.

The McIntosh emigration of the Creeks, which has been described in connection with the history of the Creek treaties, followed the treaty of 1825, which had been ratified only by the faction headed by McIntosh. Though the division thus created between the eastern and western Creeks bore partisan fruits that were later matured in the Civil war between the states, the schism appears not to have produced such active and uncompromising hostility as in the case of the Cherokees.[17]

The removal of eastern Creeks, on the commission by them of certain alleged hostile acts, was made a military operation. December 1, 1836, the office of Indian affairs reported that all of them had been removed under contract with the exception of the families of a band of 700 warriors. The first party that was removed, consisting of 2,300, encamped on the Verdigris on the 7th of September, 1836. Their approach was viewed by the resident Creeks with jealousy and distrust, owing to the fear of the latter that the newcomers might assume a dominating position in the affairs of the tribe. They asserted that having, after encountering dangers and privations, estab-

Canadian river; thence down said river to its junction with the Arkansas river; thence down said river to the place of beginning . . .

Art. 2. A district for the Chickasaws is hereby established bounded as follows: Beginning on the north bank of the Red river at the mouth of Island Bayou [etc., as provided in the treaty of Nov. 4, 1854].

Art. 3. The remainder of the country held in common by the Choctaws and Chickasaws shall constitute the Choctaw district, and their offices and people shall at all times have the right of safe conduct and free passage through the Chickasaw district.

Art. 9. The Choctaw Indians do hereby absolutely and forever quit-claim and relinquish to the United States all their right, title and interest in and to any and all lands, west of the one hundredth degree of west longitude; and the Choctaws and Chickasaws do hereby lease to the United States all that portion of the common territory west of the ninety-eighth degree of west longitude, for the permanent settlement of the Wichita and such other tribes or bands of Indians as the government may desire to locate therein; excluding however . . .

Art. 10. In consideration of the foregoing relinquishment and lease, and as soon as practicable after the ratification of this convention, the United States will pay to the Choctaws the sum of six hundred thousand dollars, and to the Chickasaws the sum of two hundred thousand dollars.

[17] "November the 26th, 1828, our exploring party encamped on the Arkansas, at the mouth of Verdigris river. We remained in this neighborhood until the second of December. Here our Creek delegation had an opportunity of enjoying the company of about fifteen hundred of their countrymen, who had recently arrived from the east of the Mississippi. This interview appeared to be pleasant to both parties. These Creek immigrants belonged to what was termed the McIntosh party, and our delegation belonged to the other and larger party. Old General McIntosh, who had headed this smaller party on the east of the Mississippi, had been killed by the others, and some fears were felt lest an existing grudge might mar the future peace of the two parties, if located near each other. It was, therefore, the more pleasant to witness the friendly manner in which the delegation was received by the immigrants. They expressed a desire that their people generally should follow and settle with them; and lest any should be deterred from doing so, by supposing that the immigrants retained angry feelings on account of a former quarrel, they held a council, and prepared a written communication to the other party, affectionately inviting them into their country, under assurances that former grudges were buried." (McCoy's "Baptist Indian Missions," p. 365.)

lished themselves in comfort and framed a system of government and laws for themselves, their situation ought not to be rendered worse by the coming among them of those who, by their hostile acts, had reduced themselves to beggary and want. A council was held at Fort Gibson, at which Roley McIntosh said in behalf of the western Creeks that "they were willing to meet the new emigrants as friends provided they would submit to the laws now in force." The newcomers expressed themselves willing to accommodate themselves to the government and customs under which the western Creeks had prospered. In subsequent reports the Indian commissioner finds that, while the two divisions of the Creeks do not regard each other with complete confidence and good will, there was no likelihood of serious collision between the factions.

A document that incidentally tells the story of the removal of the Indians is the contract, dated September 7, 1835, between the commissary general of subsistence and John W. A. Sanford and Company. The latter agreed to remove "the Creek Indians, occupants of the Creek Nation, in the state of Alabama, from said nation, to a point in the new country allotted to the Creeks west of the territory of Arkansas, and within twenty miles of Fort Gibson, men, women and children, with their slaves and their goods and chattels."

The involuntary emigration of a large body of people from one territory to another is in itself a severe measure, entailing hardships that could not be recounted in detail. To take many thousand persons across the almost unbroken wilderness of the Mississippi valley three-quarters of a century ago was a task that has not a parallel in American history. The contract system under which the removal was made at its best could not be safeguarded from opportunities to unscrupulous men for exacting the highest profit from the enterprise. At so much per head, for the removal of the Indians, it was entirely a business proposition with the contractors, and too often the necessity of firm discipline was perverted by harshness and unfeeling cruelty. In the hands of contractors, the removal of the Indians was not a great philanthropy, but was carried out with the same business considerations that would characterize the transportation of commodities of commerce from one point to another.

The terms of the contract are the best commentary for the reader who would understand these features of the Indian migration. The contract mentioned above called for the following rations: "The ration of bread shall be one pound of wheat flour, Indian meal, or hard bread, or three quarters of a quart of corn; the meat ration shall be one pound of fresh or three-quarters of a pound of salt meat or bacon; and with fresh meat, two quarts of salt to every hundred rations. The transportation shall be one six-horse wagon and fifteen hundred pounds of baggage to from 50 to 80 persons. The provisions and transportation shall be the best of their kind. The average daily travel shall not exceed twelve miles." Those who were able-bodied proceeded on foot. It was a long, straggling line of march for men, women and children, through mud and dust, through rain and sun, through a country that tried the hardihood of trained soldiers, and under conditions that our modern infantry would complain of. But it was provided that "the sick, those enfeebled from age or other cause, and young children, shall be transported in wagons or on horseback; that those who may be pronounced unable to proceed may

be left on the route at some proper place, and under the care of some proper person, at the expense of the United States." The contractors would receive twenty dollars a head for this transportation, and for those dying by the way an amount proportioned to the distance traveled. Each party was to be accompanied by two or more military escorts and a surgeon to see that proper treatment was accorded the Indians and that the terms of the contract were fulfilled.

CHAPTER VII

THE INTERCOURSE ACT OF 1834 AND PROGRESS OF THE INDIAN TRIBES.

Referring to the work of the commissioners who had been sent to the Indian country in 1832, Secretary of War Cass, in his report of December, 1833, says that among the tasks remaining for the commissioners, "one of the most interesting is a practical plan for regulating the intercourse of the various tribes, with one another and with the United States, and for the establishment of some general principles by which their own internal government can be safely administered by themselves, and a general superintending authority exercised by the United States."

The result was the act of Congress, of June 30, 1834, known as the Indian Intercourse Act.[1] It has been sometimes stated that this piece of legislation created Indian Territory, and the history of the Territory has often been made to date from this act. But a reading of the previous pages shows that the Indian country was the result of numerous treaties with tribes east of the Mississippi and the general policy of collocation of the Indians as adopted by the government years before Congress passed this act. This act is best described as the "intercourse act" since it regulated the relations which were thenceforward, with occasional amendment, to subsist between the legal residents of the Indian country and the surrounding states and territories. But among other provisions, the act directed "that all that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the territory of Arkansas, . . . be taken and deemed to be the Indian country." Hence arose the misconception that this act created Indian Territory, though careful reading shows that the domain thus set aside contained an area much greater than that later known in geographies as "Indian Territory."

The intercourse act was a most important piece of legislation. Under its provisions the development of the Indian country proceeded for many years. The regulations provided were sufficient, so far as effective legislation was concerned, until after the Civil war.

Among other provisions of this act were those concerning the licensing (for a not longer period than three years) of all persons engaged in trade in the Indian country, and the regulation of intercourse with the Indians, including fine and removal of all persons unauthorized to reside in the country. No hunting, trapping or grazing of cattle, nor settlement of white persons should be permitted. Liquor traffic within the Indian country was prohibited in all forms.

For legal purposes the Indian country was attached to Missouri and Arkansas. Section 24 reads: "That for the sole purpose of carrying this act into effect, all that part of the Indian country west of the Mississippi river, that is bounded north by the

[1] U. S. Stat. at Large, Vol. IV, p. 729.

north line of lands assigned to the Osage tribe of Indians, produced east to the state of Missouri; west by the Mexican possessions; south, by Red river; and east, by the west line of the territory of Arkansas and the state of Missouri, shall be, and hereby is, annexed to the territory of Arkansas," . . . the Indian country to the north being annexed to the judicial district of Missouri.

The criminal laws of the United States were declared in force in the Indian country, but not to apply to crimes committed by one Indian against another. . .

By act of June 30, 1834, a superintendent of Indian affairs for the Indian country west of the Mississippi was created with residence at St. Louis.

President Jackson and his associates of the time were clearly sincere in their belief that the Indian country, as formed by the act of 1834, was forever dedicated to the home and uses of the Indian, and that in thus raising a barrier against the intrusion of white settlement, they had taken measures to guard the Indians from the evils which had brought them to their miserable condition. The arguments by which the president justifies his actions are presented in his message of December, 1835, and the message also recites something of what the government did for the Indians in reward for the peaceable emigration.

"The plan of removing the aboriginal people who yet remained within the settled portion of the United States, to the country west of the Mississippi river, approaches its consummation. It was adopted on the most mature consideration of the condition of this race, and ought to be persisted in till the object is accomplished, and prosecuted with as much vigor as a just regard to their circumstances will permit, and as fast as their consent can be obtained. All preceding experiments for the improvement of the Indians have failed. It seems now to be an established fact, that they cannot live in contact with a civilized community and prosper. Ages of fruitless endeavors have, at length, brought us to a knowledge of this principle of intercommunication with them. The past we cannot recall, but the future we can provide for. Independently of the treaty stipulations into which we have entered with the various tribes for the usufructuary rights they have ceded to us, no one can doubt the moral duty of the government of the United States to protect, and, if possible, to preserve and perpetuate the scattered remnants of this race, which are left within our borders. In the discharge of this duty, an extensive region in the west has been assigned for their permanent residence. It has been divided into districts, and allotted among them. Many have already removed, and others are preparing to go; and with the exception of two small bands, living in Ohio and Indiana, not exceeding fifteen hundred persons, and of the Cherokees, all the tribes on the east side of the Mississippi, and extending from Lake Michigan to Florida, have entered into engagements which will lead to their transplantation.

"The plan for their removal and re-establishment is founded upon the knowledge we have gained of their character and habits, and has been dictated by a spirit of enlarged liberality. A territory exceeding in extent that relinquished, has been granted to each tribe. Of its climate, fertility and capacity to support an Indian population, the representations are highly favorable. To these districts the Indians are removed at the expense of the United States; and, with certain supplies of clothing, arms, ammunition, and other indispensable articles, they are also furnished gratuitously

with provisions for the period of a year after their arrival at their new homes.

"In that time, from the nature of the country, and of the products raised by them, they can subsist themselves by agricultural labor, if they choose to resort to that mode of life; if they do not, they are upon the skirts of the great prairies, where countless herds of buffalo roam, and a short time suffices to adapt their own habits to the changes which a change of the animals, destined for their food, may require. Ample arrangements have also been made for the support of schools; in some instances council houses and churches are to be erected, dwellings constructed for the chiefs, and mills for common use. Funds have been set apart for the maintenance of the poor, the most necessary mechanical arts have been introduced, and blacksmiths, gunsmiths, wheelrights, millwrights, &c., are supported among them. Steel and iron, and sometimes salt, are purchased for them; and ploughs, and other farming utensils, domestic animals, looms, spinning wheels, cards, &c., are presented to them. And besides these beneficial arrangements, annuities are, in all cases, paid, amounting, in some instances, to more than thirty dollars for each individual of the tribe; and in all cases sufficiently great, if justly divided and prudently expended, to enable them, in addition to their own exertions, to live comfortably. And, as a stimulus for exertion, it is now provided by law that "in all cases of the appointment of interpreters, or other persons employed for the benefit of the Indians, a preference shall be given to persons of Indian descent, if such can be found who are properly qualified for the discharge of the duties.

"Such are the arrangements for the physical comfort, and for the moral improvement, of the Indians. The necessary measures for their political advancement, and for their separation from our citizens, have not been neglected. The pledge of the United States has been given by Congress, that the country destined for the residence of this people, shall be forever 'secured and guaranteed to them.' A country, west of Missouri and Arkansas, has been assigned them, into which the white settlements are not to be pushed. No political communities can be formed in that extensive region, except those which are established by the Indians themselves, or by the United States for them, and with their concurrence. A barrier has thus been raised, for their protection against the encroachments of our citizens, and guarding the Indians, as far as possible, from those evils which have brought them to their present condition. Summary authority has been given by law, to destroy all ardent spirits found in their country, without waiting the doubtful result and slow process of a legal seizure. I consider the absolute and unconditional interdiction of this article, among these people, as the first and great step in their amelioration. Half-way measures will answer no purpose. These cannot successfully contend against the cupidity of the seller, and the overpowering appetite of the buyer. And the destructive effects of the traffic are marked in every page of the history of our Indian intercourse."

It remains to consider some features of the progress of the Indian tribes during the period from the passage of the intercourse law and the removal of the tribes west of the Mississippi. The history of the removal and many events connected with the establishment of the tribes here has been told in the previous chapter. From contemporary documents, especially the reports of the commissioners of Indian affairs, during the years preceding the Civil war, much infor-

mation can be found that affords an understanding of the economic conditions of the Indians during this period. Though a refuge of barbarism, there were many redeeming features to the Indian country; many evidences of improvement in habits of living, of real progress in industry, especially in the cultivation of fields; education was as carefully provided by the Indian governments as by white communities, and it is really amazing to note how some of the tribes, notably the Choctaws, appropriated money for educational purposes; religion was also not neglected, and in matters of civil government the Indian councils and legislatures were models of parliamentary procedure, and the questions of concern were debated with a gravity and intelligence that were not often surpassed. So far as the judgment of history can ascertain, the progress of civilization among the five tribes during the decades before the Civil war was such as to justify the plans and efforts of the founders of this asylum for the tribes, and had untoward events and circumstances not intervened, the outcome might have been an Indian state in the true sense of the phrase.

When Catlin was among the Creeks in 1834, he found them, though but recently removed from their old homes, engaged in laying out farms and building good houses, which were, in many instances, surrounded by immense fields of corn and wheat. It was a common thing, he said, to see a Creek with twenty or thirty slaves at work on his plantation, having brought them from a slave-holding country.

Catlin drew the portraits of two distinguished chiefs of Indian Territory, the founders of a family that have always been active in the nation and leaders in many ways. They were Ben and Sam Perryman. Says Catlin: "These two men are brothers, and are fair specimens of the tribe, who are mostly clad in calicoes, and other cloths of civilized manufacture; tasselled and fringed off by themselves in the most fantastic way, and sometimes with much true and picturesque taste."

The Cherokees, in both the eastern and western divisions of the tribe, were very far advanced in the arts, according to the testimony of Catlin, who visited and studied the tribe at Fort Gibson in 1834.[2] Their numbers he estimated to be about 22,000, 16,000 of whom were at that time living in Georgia, under the government of their chief, John Ross. Catlin portrays Ross as a "civilized and highly educated gentleman." "And notwithstanding the bitter invective and animadversions that have been by his political enemies heaped upon him, I feel authorized, and bound, to testify to the unassuming and gentlemanly urbanity of his manner, as well as the rigid temperance of his habits, and the purity of his langauge, in which I never knew him to transgress for a moment, in public or private interviews." Catlin likewise expresses admiration for the aged and dignified chief, Jol-lee, who had led the first emigration of Cherokees, to the number of six or seven thousand, to the lands of the Arkansas. "This man [Jol-lee] like most of the chiefs, as well as a very great proportion of the Cherokee population, has a mixture of red and white blood in his veins, of which, in this instance, the first seems decidedly to predominate." Catlin wonders about the final results of the policy of transferring these "civilized" tribes from their ancient seats and placing them "in a new, though vast and fertile country, 1,000 miles from the land of their birth, in the doubtful dilemma whether to break the natural turf with their rustling ploughshares, or string their bows and dash over the boundless prairies, beckoned on by the

alluring dictates of their nature, seeking laurels amongst the ranks of their new enemies, and subsistence among the herds of buffaloes."

In 1834 there lived on the banks of the Canadian a hundred miles or so southwest of Fort Gibson, a band of several hundred Cherokees under the government of a distinguished chief named Tuch-ee, whom the white people familiarly called "Dutch." This chief accompanied the Dodge expedition to southwest Indian Territory in 1834, as hunter and guide, and thus became well known to George Catlin, who described him as "one of the most extraordinary men that lives on the frontiers at the present day. both for his remarkable history, and for his fine and manly figure, and character of face."

The account of this chief and his followers, as given by Catlin, is one of the important phases of the removal of the Cherokees beyond the Mississippi. It is as follows: "Some twenty years or more since, becoming fatigued and incensed with civilized encroachments, that were continually making on the borders of the Cherokee country in Georgia, where he then resided, and probably foreseeing the disastrous results they were to lead to, he beat up for volunteers to emigrate to the west, where he had designed to go, and colonize in a wild country beyond the reach and contamination of civilized innovations; and succeeded in getting several hundred men, women and children, whom he led over the banks of the Mississippi, and settled upon the head waters of White river, where they lived until the appearance of white faces, which began to peep through the forest at them, when they made another move of 600 miles to the banks of the Canadian, where they now reside; and where, by the system of desperate warfare which he has carried on against the Osages and Comanches, he has successfully cleared away from a large tract of fine country all the enemies that could contend for it, and now holds it, with his little band of myrmidons, as their own undisputed soil, where they are living comfortably by raising from the soil fine crops of corn and potatoes, and other necessaries of life; whilst they indulge whenever they please in the pleasures of the chase amongst the herds of buffaloes, or in the natural propensity for ornamenting their dresses and their war-clubs with the scalplocks of their enemies."

The condition of the most important Indian tribes inhabiting the Indian country in 1839 is described by McCoy in his "Baptist Indian Missions." Beginning with the Osages, whose reservation began twenty-five miles west of Missouri, he says: "They number 5,510 souls. . . . No tribe has been so much neglected by the government of the United States, so much imposed upon by rapacious traders, or so grossly traduced by both white and red men, as this wretched people, who have been incapable of pleading their own cause, or of telling their own story of sufferings. During the last eleven years they have presented an inviting field for missionary effort, which might be entered with the prospect of imparting much benefit. Government has at different times made liberal provisions for the assistance of these people in improving their condition, but hitherto, for want of regard for their interests on the part of those who have mingled with them for the purpose of applying the means of relief, no benefit of consequence has been afforded them. The Baptists have made an effort to establish a mission among them, and are hindered only by a want of missionaries.

[1] Catlin, "Letters and Notes," Vol. II, p. 119.

The Presbyterians had missions among them, but they have been abandoned."

"The Creeks and Seminoles have become blended; their whole number is computed to be 24,100. . . . Many of these may properly be denominated civilized, though a majority fall below that appellation. They have not yet recovered from the damage sustained by emigration; nevertheless, their prospects of becoming comfortable, and of improving in industry and virtue, are very good. Considered as a tribe, they are in these respects a little in the rear of the Cherokees and Choctaws. . . . The Presbyterians and Methodists have had missions among them, but have relinquished them." The Baptist mission among the Creeks was started with every prospect of success, but was broken up either, as was alleged, by the undue zeal on the part of the missionaries in preaching anti-slavery doctrines, or by a less reasonable hostility against the mission influence, fostered largely, it was thought, by selfish whites.

"The Cherokee country," continues Rev. McCoy, "adjoins the state of Arkansas on the north of the river of the same name. About six thousand have been several years resident in that country, and, by late emigrations, their number has increased to about twenty-two thousand. These may be denominated a civilized people, though less civilized, taken as a whole, than an equal number of white citizens on the frontiers of our new states. At the same time, there are many who are wealthy, and not a few who have attained a state of refinement in manners which would render them respectable anywhere in the United States. They have some men of respectable education, and a still great number of men whose talents would not suffer by comparison with talented men of our nation. . . . The Presbyterians have long had several missionary stations in this country, the most extended and useful of which is Dwight, the minister at which is Rev. C. Washburn. . . . The Dwight station has always sustained a large boarding school, which has given to it stability of character, and opened the way to every part of the nation for imparting religious instruction, by preaching and otherwise, to the extent of the whole time of the missionaries. They have a printing press in operation at one of their stations. The Methodists also have missions among these people." The Baptists had placed a mission among the Cherokees in 1817, before the removal, and at the time the two most noted missionaries among them were Evan Jones and Jesse Bushyhead, each of whom had conducted a party of Cherokees to their new homes. Rev. Bushyhead was a native Cherokee. The names of these missionaries were subsequently identified with many important events in the Cherokee Nation.

"The Choctaws are estimated at fifteen thousand, and are the most southern tribe. . . . The Chickasaw tribe, numbering 5,500, is merged with the Choctaw, making the whole number 20,500. These are justly entitled to the appellation of a civilized people. Before the late difficulties, the Cherokee Nation was allowed to be in advance of all others. But the Choctaws, having had time, since their settlement in their permanent home, to organize their civil government judiciously, must be said to be at this time in advance of every other tribe. We say more: No Indian tribe, since the discovery of America by white men, except the Choctaw, has fully exchanged the savage customs for the institutions of civil government. Their existence as a civilized community is in its incipient stages. Nevertheless, the foundation appears to be permanently laid, for the pro-

motion of civilization, to the entire exclusion of the customs peculiar to savage life in the management of public affairs."

In the report of the commissioner of Indian affairs for 1838, are some interesting facts concerning the industrial and civil advancements of the Choctaws and Chickasaws. The former were already engaged in the cultivation of cotton along the Red river, and from another source it is learned that they manufactured cloth at that time. Three gins were owned and operated by natives. Col. David Folsom, "an intelligent and wealthy Choctaw," was manufacturing the much needed article of salt on Boggy near Blue. The Choctaw council house had just been completed and was first used for the assembling of the representative council in October, 1838.

"The Chickasaws," to quote the report, "have settled generally through the Choctaw Nation, without going to the district assigned them by the treaty. They have, however, a right to settle in any part of the Choctaw Nation, and enjoy equal privileges, one with another, except in the national fund. Generally speaking, they have settled in companies or bodies over the nation. . . . The largest body of Chickasaws have settled on Boggy and Blue. . . . The Choctaws have changed their constitution and admitted the Chickasaws into their council, with a chief and ten councilors, the same as either of the other Choctaw districts. Speaking, as they do, the same language, and intermarrying with each other, there cannot be doubt but in a few years they will be one people. A few of the wealthier half-breeds have settled near Fort Towson, with the design of raising cotton largely. Colonel Colbert has a farm opened, and will cultivate next year from 300 to 500 acres in cotton, besides making corn sufficient for his hands. Upon this farm he has 150 slaves."

"The Creeks," states the Indian commissioner in 1838, "settled quite thick together when they first reached the country; they are now extending their settlements up the Canadian to Little river, and a few have even gone further out towards Camp Mason. This will enable them to raise stock and be more comfortably situated. Another portion of the late emigrant Creeks have gone up the Arkansas and have joined what is called the McIntosh party. The nation is divided into what is called upper and lower towns, as it was before their removal. McIntosh is chief of the lower town, and Apothleyohola of the upper town. The parties are nearly equally divided."

The difficulties arising from the settlement of the Seminoles among the Creeks and Cherokees on their removal to the Indian country continued for several years to perplex the Indian officials, until the question was settled in the treaty negotiated in January, 1845, with the Creeks and Seminoles. Large numbers of the Seminoles, chiefly the more hostile of the recent emigrants, had without any authority settled among the Cherokees, to whom they were exceedingly troublesome on account of their marauding habits and destitute condition. The country provided for them some years before had been appropriated to the upper Creeks at a time when it was considered important to separate that band from their former antagonists of the lower towns. This disposition of their lands caused the Seminoles to refuse to settle in any part of the Creek country, and they were a troublesome factor in Indian affairs until the treaty of 1845, when the differences were reconciled by securing to the Seminoles a full

representation in the Creek government, giving them the right to settle without restriction on vacant Creek lands, and furnishing them six months' subsistence (the last provision being, in the opinion of the agent, the chief incentive to their assent to the treaty). The great body of this tribe, in consequence, had moved to the vicinity of Little river, and were reported, in September, 1845, as prospering.

The report of the superintendent of the southern superintendency in September, 1859, deals specifically with several questions that are of particular interest in understanding the condition of the tribes just before the war. The strong bias that crossed all the judgments of men on public matters and policies at that time makes it necessary to qualify even these expressions on the Indian tribes. Of civilization among the Cherokees, his opinion is that "so far as concern their moral and intellectual development, at best, they do no more at present than not to retrograde. . . . While they continue obstinately wedded to their notions of nationality and of holding their lands in common, and inveterately opposed to opening their country to settlement, and to taking any steps toward admission into the union of states, they cannot be expected to advance in civilization beyond a certain point, which, I think, they have already reached."

Then follows an exposition of one of the causes that had been working for years toward the disintegration of the Indian tribes. "The abandonment of the military post at Fort Gibson and the growing up of a vicious little town there have given unusual activity to the whisky trade in that region of the Cherokee country and in the Creek country adjoining. During the last Creek payment several hundred gallons of liquor were vended in small quantities and at enormous prices, just within the Cherokee line, and disorder and violence were the natural consequence." The evils growing out of large annuity payments to the Indians are also criticised. "The Creeks have received the last large sums of money payable to them by the United States under the treaty of 1856. . . . With the cessation of these payments many of the traders will disappear from the country, and the business of those that remain will no longer consist in purchasing head rights in advance, but the Indians will be compelled to resort to the raising of stock and grain as a means for the purchase of goods no longer sold on credit. It is to be hoped that then the number of officials will be diminished, so that some portion of the Creek annuities may be devoted to other purposes than the payment of salaries; since public buildings are needed, and there are roads that should be improved, and bridges that should be erected, for which, and for other national purposes, nothing is ever to be found in the treasury. . . ."

This report estimates the whole number of Cherokee Indians to be 21,000, with 4,000 voters. It has been said that the Cherokees had little interest in slave-holding. Yet the number of negroes in the nation at that time was estimated at 4,000 (see below), which would indicate that no small part of the labor was performed by slaves, and that slavery was an institution among the Cherokees of no small financial and industrial extent. The insinuating progress of white intrusion is also seen in the presence among the Cherokees at that time of 1,000 persons.

The report of the eighth census (1860) contains a valuable summary of the status of slavery among the five tribes. With a total of nearly 8,000 slaves among the Indians of these tribes, and the two tribes

most advanced in civilization possessing two-thirds of the whole number, it is evident that slavery was a recognized institution of the Indian country and an integral part of the industrial system, though not so vitally a factor of material prosperity here as in the southern states. The portion of the census report referred to is quoted:

"A new element has been developed by the present census, viz., that of the statistics of negro slavery among the Indian tribes west of Arkansas comprising the Choctaw, Cherokee, Creek and Chickasaw nations; also the number of white and free colored population scattered throughout these tribes. . . . By reference to this table it will appear that the Choctaws held 2,297 negro slaves, distributed among 385 owners; the Cherokees, 2,504, held by 384 owners; the Creeks, 1,651, owned by 267 Indians; and the Chickasaws, 917, to 118 owners. As, under all the circumstances of slavery everywhere, the servile race is very unequally distributed, so will appear to be the case with the Indian tribes. While one Choctaw is the owner of 227 slaves, and ten of the largest proprietors own 638, averaging nearly 64, the slaves average about 6 to each owner of slaves in that tribe, while the Indians number about as 8 to 1 slave.

"Among the Cherokees the largest proprietor holds 57 slaves; the ten largest own 353, averaging a little over 35, and the number to each holder averages a little more than a half per cent more than with the Choctaws, while the population of Indians in the tribe to slaves is about 9 to 1. Among the Creeks 2 hold 75 slaves each; 10 own 433, while the ratio of slaves to the whole number of Indians varies but little from that with the Cherokees. The largest proprietor among the Chickasaws holds 61 slaves; ten own 275, or an average of 27½, while the average is nearly 8 to each owner in the tribe, and 1 to each 5½ Indians in the tribe. It thus appears that in those tribes there are nearly 8 Indians to each negro slave, and that the slaves form about 12½ per cent of the population, omitting the whites and free colored. The small tribe of Seminoles, although like the tribes above mentioned, transplanted from slaveholding states, holds no slaves, but they intermarry with the colored population. These tribes, while they present an advanced state of civilization, and some of them have attained to a condition of comforth, wealth, and refinement, form but a small portion of the Indian tribes within the territory of the United States, and are alluded to on account of their relation to a civil condition recognized by a portion of the States, and which exercise a significant influence with the country at large."

CHAPTER VIII

THE INDIANS AND THE CIVIL WAR

Before the actual outbreak of hostilities, in the winter of 1860, adherents of the southern cause, among the most effectual and influential of whom were the official agents of the United States accredited to the Indian tribes, were active in propagating the doctrines of secession among the Cherokees and other tribes of Indians in the Territory. Secret societies were organized, especially among the Cherokees, and Stand Watie, the recognized leader of the old Ridge or treaty party, was at the head of the southern party. A counter organization was formed among the loyally inclined portion of the nation, who looked to John Ross as their leader. This latter society termed themselves the "Kee-too-wha," a name by which the Cherokees were said to have been known in their ancient confederation with other tribes. The distinguishing badge of membership was a copper pin worn in a certain position on the coat, vest or hunting shirt. This gave rise to the common designation of "Pin Indians" in referring to the loyal party. According to the statement of General Albert Pike, this "Pin" society was organized and in full operation before the beginning of the secession difficulties, and was really established for the purpose of depriving the half-breeds of all political power. It was also alleged to have been established by Rev. Evan Jones, a missionary for more than forty years among the Cherokees, as an instrument for disseminating anti-slavery doctrines.[1]

As early as February 7, 1861, the Choctaw Nation by resolutions in general council, expressed its adherence to the south. In the event of dissolution "we shall be left to follow the natural affections, education, institutions, and interests of our people, which indissolubly bind us in every way to the destiny of our neighbors and brethren of the southern states."

Agents of the south were active among the Indians in the early months of 1861, and it became evident to the government even before the opening of the war that occupation of the territory would be impracticable. "The interests of the United States are paramount to those of the friendly Indians on the reservation near Fort Cobb," was the excuse for the withdrawal of troops from that post and from Fort Arbuckle, according to orders issued in the middle of March.

Almost with the declaration of war, Texas troops moved north against the posts in Indian Territory. Lieutenant-Colonel W. H. Emory was in command at Forts Washita, Cobb and Arbuckle. At the approach of the Texans these posts were

[1] "Much excitement is reported to exist among the Cherokees, and during the past year many murders and other crimes and outrages have been perpetrated. A secret association has been formed by the full-blood members of the tribe, and the cause of all the existing difficulties is attributable, it is alleged, to the missionaries among them who are charged with interfering with the institution of slavery in the Cherokee Nation."—Report of Commissioner of Indian Affairs Greenwood, November 30, 1860.

abandoned, the plan of concentration having failed. Fort Arbuckle was surrendered May 5, Washita was abandoned April 16, and on May 19, Colonel Emory reported from his position in Kansas on the way to Leavenworth, with his entire command. The Texas troops, after seizing the forts, turned over the property to the Chickasaw Indians, and returned to Texas.

It is evident that both the north and the south represented each other to the Indians in the worst possible light. Thus the secretary of war of the Confederacy, addressing the Choctaw Nation (May 13, 1861), refers to the wish of the Confederacy "to secure the protection of these tribes in their present country from the agrarian rapacity of the north." The language used throughout by the agents of both sides is such as would be employed in convincing a puerile and ignorant people. In May, 1861, the Chickasaws formally declared allegiance to the Confederate government, in resolutions that passed both houses, and received the approval of Governor Harrison on May 25. The resolutions are overweighted with expressions of fear of the north's aggression and the possible results of northern domination in the Indian country. The "Lincoln hordes and Kansas robbers" were held up as a fearful bugaboo to the Indians.[2]

The plan of operations in Indian Territory adopted by the Confederate government at the beginning of the war, as outlined in a letter from Secretary of War Walker, was as follows: General Ben McCulloch, with the three regiments from Arkansas, Texas and Louisiana, was commissioned to take charge of the military district embracing the Indian country. To co-operate with this command a mounted regiment was to be raised by Douglas H. Cooper among the Choctaws and Chickasaws, and two other regiments among the Creeks, Cherokees, Seminoles and other tribes.[3]

The Confederate government had little difficulty in winning over the tribes in

[2] Whereas the Lincoln Government, pretending to represent said Union, has shown by its course towards us, in withdrawing from our country the protection of the Federal troops, and withholding, unjustly and unlawfully, our money placed in the hands of the Government of the United States as trustee, to be applied for our benefit, a total disregard for treaty obligations toward us; and whereas, our geographical position, our social and domestic institutions, our feelings and sympathies, all attach us to our southern friends, against whom is about to be waged a war of subjugation or extermination, of conquest and confiscation. . . .

Resolved, That our neighboring Indian Nations —Choctaws, Cherokees, Creeks, Seminoles, Osages, Senecas, Quapaws, Comanches, Kiowas, together with the fragmentary bands of Delawares, Kickapoos, Caddoes, Wichitas, and others within the Choctaw and Chickasaw country, who are similarly situated with ourselves, be invited to co-operate in order to secure the independence of the Indian nations and the defense of the territory they inhabit from northern invasion by the Lincoln hordes and Kansas robbers, who have plundered and oppressed our red brethren among them, and who doubtless would extend towards us the protection which the wolf gives to the lamb should they succeed in overrunning our country; that the Chickasaws pledge themselves to resist by all means, and to the death, any such invasion of the lands occupied by themselves or by any of the Indian nations; . . .

Resolved, That the governor of the Chickasaw Nation be, and is hereby, instructed to issue his proclamation to the Chickasaw Nation, declaring their independence. (Extracts taken from Resolutions of the Senate and House of Representatives of the Chickasaw Legislature assembled, May 25, 1861.) (Ser. I, Vol. III, War of Reb.)

[3] By special order from the Confederate war department, November 22, 1861, "the Indian country west of Arkansas and north of Texas," was constituted "the department of Indian Territory" and Brigadier General Albert Pike was assigned to command of the several Indian regiments in the limits of the department. January 10, 1862, Indian Territory was attached to "the Trans-Mississippi district of Department No. 2," under command of Major General Earl Van Dorn.

southern Indian Territory to their allegiance. The Choctaws, in general council June 10, 1861, following the example of the Chickasaws, and in accordance with their own previous expressions, declared themselves absolved from treaty relations with the United States and resolved upon an alliance with the south. George Hudson, the principal chief, issued a proclamation of these intentions and called upon his people for enlistments in the military for field and home duty.

The Cherokee people were divided in sentiment, the minority favoring active support of the Confederacy, while the majority, headed by Chief John Ross, endeavored to maintain a neutral position. Ross communicated to General McCulloch in June, 1861, the desire of himself and the majority of his people to refrain from active participation in the war, and in sending this communication to the Confederate department of war, McCulloch advised (June 22, 1861): "Under all the circumstances of the case I do not think it advisable to march into the Cherokee country at this time unless there is some urgent necessity for it. If the views expressed in my communication to you of the 14th inst. are carried out, it will, I am satisfied, force the conviction on the Cherokees that they have but one course to pursue—that is, join the Confederacy. The Choctaw and Chickasaw regiment will be kept on the south of them; Arkansas will be on the east; and with my force on the western border of Missouri no force will be able to march into the Cherokee Nation, and, surrounded as they will be by southern troops, they will have but one alternative at all events. . . . I am satisfied from my interview with John Ross and from his communication that he is only waiting for some favorable opportunity to put himself with the north. His neutrality is only a pretext to await the issue of events."

Before the close of the first summer the influences directed against neutrality were such that the Cherokees, in a general meeting of the nation at Tahlequah August 21, 1861, while approving the neutral policy, at the same time recognized their close relations to the south and submitted the questions of future allegiance to the wisdom of the nation's chiefs. The chiefs at once communicated to General McCulloch their determination to join the south. The defection of the Cherokees and their leader John Ross was explained by United States Indian Agent E. H. Carruth in the following way:[4]

"Two days before the convention in which the Cherokee council voted by acclamation to join the rebels, Mr. Ross stated that he would die sooner than become a party to rebellion. . . . The convention had been called for the sole purpose of reconciling differences between what is known here as the Watie party and the full-blood Indians. Stand Watie had raised a regiment and been accepted into the rebel service. Mr. Ross did all in his power to prevent a collision among the Cherokees, and the convention of August 21 was intended to harmonize the conflicting elements. . . . Just at this time Mr. Ross learned that Ben McCulloch and Stand Watie were to unite and overrun the Cherokee country, McCulloch having assured Watie that he would crush out the Union element of the tribe. He [McCulloch] was then at Camp Walker with forces estimated at 14,000 men and expecting reinforcements. . . . The danger was imminent; Ross wished to avert it, and did so in the only possible way. He assured the convention that the

[4] Report of Commissioner of Indian Affairs, 1862, Ex. Doc., 3d sess.; 37th Cong., Vol. II.

time had now arrived when he deemed it necessary for the nation to take preliminary measures to enter into treaty stipulations with the Confederate states. A vote was immediately taken, and without a dissenting voice John Ross was authorized to sign the articles previously presented by the Confederate commissioners."[5]

After the Tahlequah convention in August, a Confederate regiment was organized among the Cherokees, and Stand Watie,[6] the leader of the anti-Ross party, placed in command. A regiment of home guards was also organized and the command assigned to Colonel John Drew. One prominent leader still remained loyal to the government, the aged chief of the Creeks, Hopoeithleyohola. When informed of the action of the Cherokees at Tahlequah, he firmly refused to join the majority of his people in allegiance to the southern states. At a council of the Creeks he reminded them of the duties and obligations by which they were bound to the government, and bitterly complained that the Cherokees had been bought. But the majority of the Creeks favored going with the southern cause, and their treaty with the Confederate commissioners resulted in a division of the nation into two hostile parties. Hopoeithleyohola gathered about him the loyal portion of the Creeks, Seminoles, Kickapoos, Wichitas and Delawares, and among the hills along the Arkansas river made a determined stand for the Union.

The operations in Indian Territory during the last months of 1861 consisted principally of the movement against the loyal Indians under Chief Hopoeithleyohola.[7] In the middle of November a force of about 1,400 men, consisting of six companies of the First Regiment Choctaw and Chickasaw Mounted Rifles, and a part of the Ninth Regiment Texas Cavalry, besides the Creek regiment of Col. D. N. McIntosh and the Creek and Seminole battalion under Chilly McIntosh and Major John Jumper, advanced along the Deep Fork of the Cana-

[5] John Ross was born October 3, 1790, near Lookout Mountain, Tennessee. His father, Daniel Ross, was a Scotchman, and his mother a part-blood Cherokee. He was educated at Kingston, Tennessee. His public career began when he was nineteen years old, when he was sent by the Cherokee agent on a mission to the western Cherokees, then occupying territory now included in the boundaries of the state of Arkansas. He served during the war of 1812 as adjutant of a Cherokee regiment, under General Andrew Jackson, that fought in the war against the hostile Creeks in Florida. In 1817 he became a member of the national committee of the council of the Cherokee people, and two years later, at the age of thirty, was president of the committee, in which capacity he served until 1826. In 1827 he was associate chief of the nation with William Hicks as principal chief, and was president of the convention of that year, which framed the first national constitution. In 1828 he became principal chief of the eastern Cherokee and when, in 1838, they removed to the west, he became principal chief of the united tribe, and held that office until his death, which occurred in Washington on August 1, 1866. It seems impossible to form a correct judgment as to Ross' loyalty and actions during the Civil war. He was distrusted by the south, as we have seen, and was held to have been forced into a southern allegiance, though steadfastly Union in sentiment. Yet, at the close of the war, when the United States commission treated with the Indian at Fort Smith, it was claimed that incriminating evidence had been found showing that Ross had been a secret enemy of the government during the war, and on this ground he was excluded from participation in the council, though his people continued to profess faith in his loyalty and wisdom.

[6] Stand Watie, according to the testimony of Gen. R. M. Gano, under whom the Cherokee chief served for a time, was a brave and valuable soldier. He would stand without flinching in face of a heavy fire of hand arms, says General Gano, but when the artillery opened and the whistle and crash of a shell came near, although the danger was much less, Watie's stolid fearlessness vanished, and on one occasion at least he was seen to take refuge behind a tree.

[7] War of the Rebellion, Ser. 1, Vol. VIII.

dian toward the stronghold of the old Creek chieftain, who courageously held out for the Union cause to the end. The Union Indians were not overtaken until the Red Fork was crossed, and on the evening of November 19 ensued a skirmish at "Round Mountain" in which a number of men on each side were lost. The Union forces continued to withdraw, and the following morning the Confederates took possession of their deserted camp.

The diversion of the forces under Colonel Cooper to repel the threatened invasion into Arkansas by General Fremont afforded a short respite from hostilities to the Indian country. Fremont's retreat left Colonel Cooper free to continue his expedition against Hopoeithleyohola, and after a few days' rest at Spring Hill near Concharta his force of 780 men was put in motion on November 29 in the direction of Tulsey Town. A few miles north of this Indian village, on Bird creek, a junction of the Confederate forces was effected, and here on the 9th of December was fought the battle of Chusto-Talasah.

About 11 o'clock in the morning Colonel Cooper had crossed the creek and proceeded down on the east side, with a view of taking a position which would enable him to keep open communication with the depot at Coweta Mission and with reinforcements of Creeks, Seminoles and Choctaws who were expected at Tulsey Town. His official report of the ensuing events is as follows: "After proceeding down Bird creek about five miles two runners from Captain Foster reached me at the head of the column, stating he had found the enemy in large force below. Parks had exchanged a few shots with them, taken six prisoners and was retreating, hotly pursued. Scarcely had this intelligence reached me before shots were heard in the rear. . . . The forces were formed in three columns, the Choctaws and Chickasaws on the right, the Texans and Cherokees in the center, and the Creeks on the left, and the whole advanced at quick gallop upon the enemy, who had by this time shown himself in large force above us, along the timber skirting the main creek for over two miles, as well as a ravine extending far out into the prairie."

After some skirmishing in the rear and with that portion of the enemy along the ravine, the forces advanced to the position of the main engagement. "The position then taken up by the enemy at Chusto-Talasah," reported Col. Cooper, "presented almost insurmountable obstacles to our troops. The creek made up to the prairie on the side of our approach in an abrupt, precipitous bank, some thirty feet in height, at places cut into steps, reaching near the top and forming a complete parapet, while the creek, being deep, was fordable but at certain points known only to the enemy. The opposite side, which was occupied by the hostile forces, was densely covered with heavy timber, matted undergrowth and thickets, and fortified additionally by prostrate logs. Near the center of the enemy's line was a dwelling house, a small corn crib and rail fence, situated in a recess of the prairie, at the gorge of a bend of the creek, for horseshoe form, about 400 or 500 yards in length. This bend was thickly wooded and covered in front, near the house, with long interwoven weeds and grass, extending to a bench, behind which the enemy could lie and pour upon the advancing line his deadly fire in comparative safety, while the creek banks on either side covered the house by flank and reverse."

The different divisions of the Confederates, charging, forced their way under hot fire across the creek, and engaging the enemy often in close at hand conflict in the

timber and over the rough ground finally forced them back. The engagement lasted three or four hours, and the advantages varied from side to side several times. "The enemy disappeared from our entire front, and the sun having set, the troops were withdrawn and marched to camp. . . . On the next morning the Choctaw and Chickasaw regiment, the Creek regiment, Colonel Drew and his Cherokees and a portion of the Texas regiment returned to the battle ground. The enemy had retreated to the mountains."

After the battle on Bird creek the Confederate forces returned to Fort Gibson to reorganize, their victory having been dearly bought. There Col. James McIntosh with 2,000 troops was preparing for a campaign against Hopoeithleyohola. McIntosh, Stand Watie and Cooper now began a concerted movement against the old Creek chief. About noon of the 26th of December, McIntosh's troops, which were in advance, approached Shoal creek, a tributary of the Verdigris, and on crossing the stream were subjected to the fire of Hopoeithleyohola's men, who were posted on a high and rugged hill with its side covered with oak trees.

"The enemy was in a very strong position" (Colonel McIntosh's report), "and from it observed our actions, in happy innocence of the gallant resolve which animated the hearts of those in the valley below them. The Seminoles, under the celebrated chief, Halek Tustenuggee, were in front on foot, posted behind the trees and rocks, while others were in line near the summit of the hill. Hopoeithleyohola's Creeks were beyond, on horseback. A few representatives of other tribes were also in the battle. . . . Between the rough and rugged side of the hill a space of 200 or 300 yards intervened of open ground. Each tree on the hillside screened a stalwart warrior. It seemed a desperate undertaking to charge a position which appeared almost inaccessible, but the order to charge to the top of the hill met a responsive feeling from each gallant heart in the line, and at 12 m. the charge was sounded, one wild yell from a thousand throats burst upon the air, and the living mass hurled itself upon the foe." The Union forces were gradually driven from their positions, and retreated to the rocky gorges amid the deep recesses of the mountains, where they were pursued, and were finally forced to yield their last stand at their encampment. "The battle lasted until 4 o'clock, when the firing gradually ceased, and we remained victors in the center of Hopoeithleyohola's camp. . . . The stronghold of Hopoeithleyohola was completely broken up, and his force scattered in every direction, destitute of the simplest elements of subsistence." Stand Watie followed the defeated Indians the next day, overtook them, and in a running fight killed fifteen of them.

After the loyal Indians were defeated in the third battle, the scattered remnants, with their old men, women and children, were compelled to flee for their lives from the Indians' country, and to the number of from 6,000 to 8,000, still led by the dauntless old Creek who had directed them in battle, took refuge near the southern border of Kansas. Here they were fed during the winter of 1861-62 from stores provided for the army of General Hunter. "It would be impossible," reads the Indian commissioner's report for 1862, "to give an adequate description of the suffering endured by these people during their flight, and for several weeks after their arrival. When it is remembered that they were collected for the journey with scarcely a moment for preparation, amid the confusion and dismay of an overwhelming defeat; that their enemies

were close upon them . . . it may well be believed that their preparations for the journey were wholly inadequate. It was in the dead of winter, the ground was covered with ice and snow, and the weather most intensely cold. Without shelter, without adequate clothing, and almost destitute of food, a famishing, freezing multitude of fugitives, they arrived in Kansas entirely unexpectedly. . . . Within two months after their arrival 240 of the Creeks alone died. . . . Over a hundred frosted limbs were amputated within a like period of time."

The situation in the part of Indian Territory north of the Arkansas during the early months of 1862 is described in a report, dated May 1, 1862, from Baptiste Peoria, who had been sent as "United States special agent" to observe the state of feelings among the Cherokees. He says: "A Cherokee by the name of Stanwaite [Stand Watie], together with a white man by the name of Coffee, have been occupying that portion of the Cherokee country along the line of Arkansas and Missouri and the southern line of Kansas for some six months. Stanwaite was upon the neutral lands last March, threatening and driving off settlers and burning their houses. Coffee has a scouting company of two or three hundred with which he watches the line. . . . The Cherokees are the most powerful tribe in the Indian Territory, and the smaller tribes are afraid of them. Stanwaite and Coffee are now watching the line between Kansas and the Cherokee country. Whenever a force moves down into that country they retreat down to Fort Gibson, where they claim to have large forces, some five or six thousand, composed in part of Texans and Arkansans."[8]

[8] Report of Commissioner of Indian Affairs, 1862.

The battle of Pea Ridge, or Elkhorn, in March, 1862, reversed the conditions of the opposing forces in Indian Territory. Up to that time, as a result of the victories over Hopoeithleyohola, the Confederate supremacy in Indian Territory was undisputed. With the Elkhorn disaster, however, the southern troops were compelled to retreat to the Arkansas, and at the same time the loyalty of the Indian allies was much shaken, the Cherokee regiment commanded by Colonel Drew deserting, soon after, to the Union army. Many of the troops of the Trans-Mississippi department were moved east in anticipation of the grand contest at Corinth, and Missouri, Arkansas and Indian Territory were left almost entirely exposed to any movements that a considerable Union force might project within their borders.

After the defeat of the loyal Creeks in 1861, an expedition was planned by the Union government to enter the Territory and offer protection to the Indians. This was known as the Indian expedition, including two regiments of white troops and about two thousand loyal Indians, which after a delay of some months finally marched south about July, 1862. The Indian regiments had been organized to act in the capacity of home guards for Indian territory and adjacent country. They were commanded by white officers and were sent against the enemy in co-operation with a small body of white troops.

Major General T. C. Hindman, in his general report to the Confederate department of war, said, referring to this expedition: "The federal Indian expedition was moving from Fort Scott, and its advance had crossed the Cherokee line. To meet this force, 5,000 strong, we had only the brave Stand Watie, with his faithful regiment of half-breed Cherokees; Drew's regi-

ment of full-bloods, many of whom were disaffected, and Clarkson's battalion of Missourians, raised under my orders, and sent there at the urgent request of Watie and Drew. . . . This small command encountered the enemy and was defeated. Clarkson was captured, with his train, and many of his men dispersed. Except a small body, under the gallant Capt. Pickens Benge, Drew's regiment deserted to the enemy. With a courage never surpassed, Stand Watie still resisted. On one occasion a portion of his regiment, under Major E. C. Boudinot, repulsed the federal advance of fivefold greater strength. But it was not possible to make head against such odds, and he was at length compelled to fall back beyond the Arkansas. The full-bloods, or Pin Indians, now rose in rebellion and committed horrible excesses. John Ross, the Cherokee chief, was pretendedly taken prisoner, but, as afterwards appeared, really went over to the enemy with the archives and money of the nation."

Col. William Weer, as commanding officer of the Indian expedition, was unable to control his troops, and on July 19, 1862, while encamped on Grand river, matters came to a climax with the arrest of Colonel Weer by Col. F. Salomon, who then assumed command. This meeting, as it was in effect, brought confusion to the entire expedition, and resulted in the retreat of all the white forces, leaving the three Indian regiments behind to fight the enemy's forces. The objects of the expedition were completely defeated, and the country, restored for a brief time to the loyal Indians, was laid open to a still more ruthless raiding by the scouting bands of Confederates. Early in August, because of a threatened movement against Fort Scott, Colonel Salomon withdrew into Kansas, leaving Fort Gibson and the valley of the Arkansas quite at the mercy of Stand Watie and his southern allies.

In the latter part of September, 1862, Brigadier General J. M. Schofield was assigned to command of the operations in the southwest, and an aggressive movement was begun to recover the ground lost in the preceding summer. With General Blunt's command co-operating, he moved from Springfield, Missouri, into northwest Arkansas. In the meantime the Confederate forces under Cooper had gone in the direction of Maysville, while Rains' cavalry command was learned to be in the neighborhood of Huntsville. General Blunt was sent in pursuit of Cooper, and overtaking him in his camp at Old Fort Wayne, in the Indian Territory, defeated him in a sharp engagement, and captured all his artillery. This battle, of October 22, was of decisive importance. Stand Watie was forced beyond the Arkansas, and his forces disorganized. The federals advanced with little opposition to take possession of the Cherokee country, and in the course of the following months captured Forts Gibson and Smith.[9]

In the closing months of 1862 the forces

[9] Major General Blunt's report of the battle of Fort Wayne is as follows: " . . . Having learned from my scouts (sent out during the day) that Cooper and Stand Watie were at or near Maysville with a force variously estimated at from 5,000 to 7,000 men, I determined, if possible, to reach their camp and attack them at daybreak. The distance to march was 30 miles, and the road through a rough, wooded, and hilly country. Three miles from Bentonville I directed my train to go into camp and follow in the morning at daylight, and moved the column forward, Colonel Cloud's brigade being in advance.

"At about 2 o'clock in the morning the advance was halted by Colonel Cloud, with a view of letting the column close up. The men were weary and exhausted, and no sooner were they halted than they dropped down in the brush by

of the Union army were in possession of Fort Gibson, and nominally had regained the territory north of the Arkansas. But the difficulty of holding such a country, whose inhabitants were about equally divided in loyalty to the north and south, is indicated in a report by Col. W. A. Phillips, in command of the Union expedition from

the roadside and were soon fast asleep. Being in the rear of Colonel Cloud's brigade, after waiting half an hour at a halt, I took a portion of my body guard, went ahead to learn the cause of the delay, and ordered the command to be moved on, going myself with the advance guard. After proceeding on 5 miles farther an open prairie lay before us of some 5 miles in extent, over which we had to pass to reach the rebel camp. At this point I went ahead of the advance guard, accompanied by Captain Russell, of the Second Kansas Regiment, and 2 men, for the purpose of getting information. In this we succeeded admirably. Stopping at a large, fine house at the edge of the prairie, and disguised as a rebel just escaped from the Federals and wishing to get with Cooper's command, I readily enlisted the sympathies of the lady, whose husband was a soldier in the rebel camp. She informed me where their pickets stood, of the location of their camp and of their strength, which was near 7,000 men, two Texas regiments having joined them the day before. I now moved the advance across the prairie and halted a quarter of a mile from their outpost, which was at the edge of the timber, on a little wooded stream, near the town of Maysville. From this point I sent Companies B and I, of the Second Kansas, under the command of Captain Hopkins, by a circuitous route, to enter the town in the rear of the enemy's pickets, for the purpose of, if possible, capturing them without alarming the camp. This, however, proved fruitless, from the fact, as I afterwards learned, that they heard us advancing across the prairie and ran in, alarming the town as they went, from which all the male inhabitants speedily decamped to seek rebel protection.

"It was now near 5 o'clock, and my desire was to attack at daylight; but, while waiting to give Captain Hopkins time to get in the rear of their pickets, on going back to ascertain if the column was closed up I learned, much to my surprise and disappointment, that during the last two or three hours' march the only troops with me had been three companies of the Second Kansas, two of which had already been sent ahead under Captain Hopkins. The main column was back 7 miles, where it was first halted. After sending a messenger back to order it up I proceeded with the one company remaining with me to the town, and reached there at the same time with Captain Hopkins. There I learned that intelligence of our approach had gone ahead of us and, fearing that the enemy would retreat, I sent Colonel Cloud (who had come with me in the advance) back to move his brigade forward as rapidly as possible, while with the three companies I determined to push ahead, attack the enemy, and endeavor to hold them until re-enforcements could arrive. Finding an intelligent contraband, whose master was in the rebel camp, with the locality of which he was well acquainted, I had no difficulty, by promising him his freedom, in engaging his services as a guide. The route from Maysville to the timber, where the rebels were posted, lay across the prairie, in a southwesterly direction, about 3½ miles distant. Dashing on rapidly we drove their pickets from the open ground under cover of the timber. The remainder of the Second Kansas, with the two mountain howitzers attached, now came galloping up and the whole regiment was quickly formed into line and, under command of Lieutenant-Colonel Bassett, was ordered to skirmish the woods on foot to ascertain the position of the enemy. At this point 5 of my body guard captured 10 armed rebels, who had been out of camp and were endeavoring to get to their command.

"Lieutenant-Colonel Bassett, not being able to ascertain the whereabouts of the rebel forces, was ordered to withdraw his men from the woods and remount them.

"Advancing through an opening in the timber, about a quarter of a mile in width, I discovered the enemy in force, their line extending across the open ground in front and occupying the road. Between the point I occupied (reconnoitering their position and movements) and their line was a pasture of open ground, some 200 yards across, and two fences intervening. Believing that the enemy were contemplating a retreat, I determined to lose no time in trying the effect of a few shells upon their ranks from the two little mountain howitzers. The Second Kansas was accordingly moved forward in line to the first fence, and the two howitzers, under the command of Lieut. E. S. Stover, supported by Company A of the Second Kansas, under Lieutenant Johnston, were ordered to advance through the fence to within 200 yards of the enemy's battery, from which position Lieutenant Stover opened upon them with shell and with much animation. The fire was returned by the enemy's guns, and in a few minutes their entire line engaged the small force I had oppos-

Cane Hill into the Cherokee Nation. This report, dated Christmas morning, states that Watie's regiment was scattered over the nation in parties, the preceding day having been spent in pursuit of these detached bands. Scanland's Texan company was at Scullyville with Cooper, Livingston with some Indian forces was at Webber's, and some Choctaws and Creeks were about Lee's creek. "The scattered condition of the enemy," contiuues the report, "the rain, swollen condition of streams, and scarcity of forage renders it extremely difficult to carry out the order to clear the enemy out of the country, but I will try. As to moving, families without number wish to leave, but I have no transportation for them. I must move toward Webber's to feel for the enemy, who may concentrate there. Colonel Waite has taken all the horses and wagons out of the country, and the order 'to assist those who want to leave' I find it difficult to do, for want of wagons. I may get some, but deem it hardly expedient to cross the Arkansas in its present state with little low ferry-boats, until I know what I am doing or hear again from Van Buren."

About January 8, 1863, Brig. Gen. William Steele assumed command of the Confederate forces in Indian Territory, relieving Major General Hindman at Fort Smith.[10] He found the country in an exhausted condition, and the few troops under his command undisciplined, ill-equipped and demoralized. The continuous occupation of the country by a large Confederate force from the beginning of the war had utterly exhausted its resources, and the withdrawal of the Confederate troops a short time before had left the people despondent and hopeless. Instead of a full regiment, General Steele found but 250 men ready for duty, but without provision of clothing or supplies. North of Red river the country was controlled by the Union forces, while jayhawkers overran both sides of the river between Little Rock and Fort Smith. Fort Gibson was held by a force of federals esti-

ing them. I then dismounted the entire regiment (The Second Kansas), formed them on foot, and ordered them to advance through the fence to within short range of the enemy's position, which order was obeyed with alacrity, they opening upon the rebel lines a terrific fire with their Harper's Ferry rifles. The enemy, observing our small force upon the field, the main column having not yet come in sight, attempted to overwhelm us by superior numbers, and by flank movements, to obtain possession of the projecting woods on my right and left. Fortunately, at this juncture the Sixth Kansas, Colonel Judson, and the Third Cherokee Regiment, Colonel Phillips, came upon the field. The former was ordered to advance upon the right and the latter on the left, which they did by rapid movements, driving back the flanking columns of the enemy. At the same moment Company B, Captain Hopkins; Company D, Lieutenant Moore; Company E, Captain Gardner; Company H, Lieutenant Ballard, and Company K, Captain Russell, of the Second Kansas, all under command of Capt. S. J. Crawford, made a gallant charge, driving in their center, capturing their artillery, and bringing it in triumph from the field. The battle was now won, and the enemy began fleeing in disorder before our victorious troops. The Second Indiana Battery, Lieutenant Rabb, came up in time to pay its respects to the rear of the fleeing rebels with excellent effect. Colonel Judson, of the Sixth Kansas, and Colonel Phillips, of the Third Cherokee Regiment, pursued them in their retreat for a distance of 7 miles, skirmishing with their rear and leaving quite a number of their dead strewn by the way, when, their horses becoming exhausted from the long and wearisome march of the night before, they were obliged to give up farther pursuit. The rebels, I have since learned, did not halt in their retreat until they had reached the Arkansas river, at Fort Gibson, 70 miles from the battle ground, where they arrived within thirty hours after their rout at Old Fort Wayne." (From War of the Rebellion. Official Records of the Union and Confederate Armies, Series I, Vol. XIII, p. 325.)

[10] Report of Brig. Gen. William Steele, C. S. army of operations in Indian Territory during 1863. War of Rebellion, Ser. I, Vol. XXII, Pt. I.

mated at from 2,500 to 3,500, under Major Gen. James G. Blunt. The Confederate troops co-operating with General Steele were those under command of General Cooper, and the regiments of Stand Watie and McIntosh. Early in the spring General Steele instituted an aggressive movement against Fort Gibson, with the design of clearing that section of the country of the Union forces. But owing to the failure of the different regiments to co-operate effectively, the trains of reinforcements and supplies came safely through from the north, and thus strengthened the federals were able to assume the offensive against the Confederates, who were then encamped at Honey Springs. In the course of the efforts to prevent the Union trains from reaching Fort Gibson, Stand Watie had attacked the escort under Colonel Phillips on May 28th, and a skirmish ensued near Fort Gibson, in which 35 rebels were reported killed, and five Union soldiers were killed. After this skirmish a regiment of Kansas colored troops and other reinforcements were sent into the Territory. It was recognized that a withdrawal of the Union forces from the Arkansas would be disastrous to the Indian country and greatly demoralize the Indian troops. The reports of the commanding officers from both sides indicate a lack of steady patriotism on the part of the Indians, their service being rather of the nature of a voluntary contribution than an obligation of duty.

On July 17, 1863, was fought the battle of Honey Springs, on Elk creek, not far from Fort Gibson. The Confederates having failed in their movement against Fort Gibson and in preventing the arrival of reinforcements at that point, General Cooper was encamped at Honey Springs, awaiting the arrival of Cabell's Arkansas brigade. General Blunt, who had taken command in person at Fort Gibson, now moved out, with a force of about 3,000, and attacked Cooper's force. Cooper, from his own report, knew of the advance of the enemy twenty-four hours before they arrived, and was also informed of the approach of Cabell's troops, but decided to give battle upon the ground he occupied, without, as was charged, taking any steps to strengthen his position or trying to effect a junction with Cabell. After a short contest he was driven from the field, reporting the loss of one howitzer and about 200 men in killed, wounded and captured.[11]

This defeat caused a rapid desertion among the Arkansas troops, and the Indian

[11] The report of General Blunt of the Union forces, of this engagement, is as follows: The rebels, under General Cooper (6,000), were posted on Elk Creek, 25 miles south of the Arkansas, on the Texas road, with strong outposts guarding every crossing of the river from behind rifle-pits. General Cabell, with 3,000 men, was expected to join him on the 17th, when they proposed attacking this place. I could not muster 3,000 effective men for a fight, but determined, if I could effect a crossing, to give them battle on the other side of the river. At midnight of the 15th, I took 250 cavalry and four pieces of light artillery, and marched up the Arkansas about 13 miles, drove their pickets from the opposite bank, and forded the river, taking the ammunition chests over in a flat-boat. I then passed down on the south side, expecting to get in the rear of their pickets at the mouth of the Grand river, opposite this post, and capture them, but they had learned of my approach and had fled. I immediately commenced crossing my forces at the mouth of the Grand River in boats and, by 10 p. m. of the 16th, commenced moving south, with less than 3,000 men, mostly Indians and negroes, and twelve pieces of artillery. At daylight I came upon the enemy's advance about 5 miles from Elk Creek, and with my cavalry drove them in rapidly upon their main force, which was formed on the south side of the timber of Elk Creek, their line extending 1½ miles, the main road running through their center.

While the column was closing up, I went forward with a small party to examine the enemy's position, and discovered that they were concealed under cover of the brush awaiting my attack. I could

troops also failed to render effective assistance. The rebel forces were then withdrawn toward Fort Smith and in the direction of the Canadian river, where, in the latter part of August, General Steele had concentrated the troops of Cabell, Cooper and Stand Watie. General Blunt moved in this direction and at Perryville, in the Choctaw Nation, had a skirmish with some of Cabell's troops. Perryville was a regular military post and an important depot of the Confederates, being the only point between Boggy Depot and North Fork Town. As nearly every building contained government stores (according to the report of the Union general), the entire town was set on fire. The Confederates were now in general retreat, Cooper and Steele retiring toward Red river, while Cabell made an effort to hold Fort Smith. Col. W. F. Cloud, of the Second Kansas Volunteers, pursued him to Fort Smith, whence Cabell retired before him, and overtook him at Devil's Back Bone, a ridge of the Poteau mountains. After three hours' fighting, the enemy continued their retreat, and Colonel Cloud returned to Fort Smith, of which post he then assumed command (in September, 1863).[12]

not discover the location of their artillery, as it was masked in the brush. While engaged in this reconnaissance, one of my escort was shot.

As my men came up, wearied and exhausted, I directed them halted behind a little ridge, about one-half mile from the enemy's line, to rest and eat a lunch from their haversacks. After two hours' rest, and at about 10 a. m., I formed them in two columns, one on the right of the road, under Colonel (William R.) Judson, the other on the left, under Colonel (William A.) Phillips. The infantry was in column by companies, the cavalry by platoons and artillery by sections, and all closed in mass so as to deceive the enemy in regard to the strength of my force. In this order I moved up rapidly to within one-fourth of a mile of their line, when both columns were suddenly deployed to the right and left, and in less than five minutes my whole force was in line of battle, covering the enemy's entire front. Without halting, I moved them forward in line of battle, throwing out skirmishers in advance, and soon drew their fire, which revealed the location of their artillery. The cavalry, which was on the two flanks, was dismounted, and fought on foot with their carbines. In a few moments the entire force was engaged. My men steadily advanced into the edge of the timber, and the fighting was unremitting and terrific for two hours, when the center of the rebel lines, where they had massed their heaviest force, became broken, and they commenced a retreat. In their rout I pushed them vigorously, they making several determined stands, especially at the bridge over Elk Creek, but were each time repulsed. In their retreat they set fire to their commissary buildings, which were 2 miles south of where the battle commenced, destroying all their supplies. I pursued them about 3 miles to the prairie south of Elk Creek, where my artillery horses could draw the guns no farther, and the cavalry horses and infantry were completely exhausted from fatigue. The enemy's cavalry still hovered in my front, and about 4 p. m. General Cabell came in sight with 3,000 reenforcements. My ammunition was nearly exhausted, yet I determined to bivouac on the field and risk a battle in the morning if they desired it, but the morning revealed the fact that during the night they had retreated south on the Canadian River.

The enemy's loss was as follows: Killed upon the field and buried by my men, 150; wounded, 400; and 77 prisoners taken, 1 piece of artillery, 1 stand of colors, 200 stands of arms and 15 wagons, which I burned. My loss is 17 killed, 60 wounded, most of them slightly. My forces engaged were the First, Second and Third Indian; First Kansas (colored), detachments of the Second Colorado, Sixth Kansas, and Third Wisconsin Cavalry, Hopkins' battery of four guns, two sections of Second Kansas Battery, under Capt. E. A. Smith, and four howitzers attached to the cavalry.

[12] From his camp on Little Boggy in the Choctaw Nation, on August 28, 1863, the Confederate General Steele made the following report: "I arrived at this place yesterday, having been obliged to fall back before superior numbers. We were closely pursued until we left Perryville, since which time we have not been molested. On the 26th, shots were exchanged frequently between their advance and my rear, and in the evening it was necessary to use my whole force to hold them in check until my train could get away. The advance of General Bankhead's command is now within a few miles, in consequence of orders sent direct to the regimental commanders. I retired on this road to meet the troops that I expected,

December 11, 1863, General Steele was relieved, at his own request, of the command of Indian Territory, and Brig.-Gen. S. B. Maxey assigned to that command. The position of the Confederate troops in Indian Territory at the close of 1863 was even as discouraging as at the time General Steele took command. General Maxey reported (December 26, 1863, "War of Rebellion," Ser. I, Vol. 22, Part ii) that his men were armed with guns of almost every variety, and that over a thousand were without arms. The only forces that could be counted on for fighting were Cano's brigade, of a little more than a thousand men, and the Indian brigade. Stand Watie, the Cherokee chief and commander of an Indian regiment, in August, 1863, in communications to the southern commissioner of Indian affairs and to the governors of the adjoining Indian nations, described the wretched condition of the southern Indians and the deplorable effects of the war. He charged that the Indian troops who had been true to the south from the very first had been treated in many instances as though it were immaterial whether or not they were paid as promptly and equipped as thoroughly as other soldiers. Many of the Indians charged the Confederate government with neglect, and the official reports show that the southern troops among the Indians were never properly equipped with arms and supplied with clothing and provisions.

Since the invasion of the Cherokee country by the northern troops in April, 1863, and the seizure of Fort Gibson, Stand Watie claimed that no vigorous efforts had been made on the part of the southern troops to dislodge them. Continuing, he said, in his letter to the Creek Nation: "They have desolated the land and robbed the people, until scarcely a southern family is left east and north of the Arkansas river. . . . The promised protection of the Confederate government, owing, I am compelled to say, to the glaring inefficiency of its subordinate agents, has accomplished nothing; it has been a useless and expensive pageant; an object for the success of our enemies and the shame of our friends. I fear that we can reasonably look for no change for the better, but that the Indians will have at last to rely upon themselves alone in the defense of their country. I believe it is in the power of the Indians unassisted, but united and determined, to hold their country. We cannot expect to do this without serious losses and many trials and privations; but if we possess the spirit of our fathers, and are resolved never to be enslaved by an inferior race, and trodden under the feet of an ignorant and insolent foe, we, the Creeks, Choctaws, Chickasaws, Seminoles and Cherokees, never can be conquered by the Kansas jayhawkers, renegade Indians, and runaway negroes."

In 1863 of the Cherokees remaining about the agency of Tahlequah, nearly all the able-

and to enable me to concentrate. The Creeks, who were encamped above North Fork Town, were ordered to join at Perryville, which they had ample time to do, but failed to do so. I have not heard from them. A Choctaw regiment joined, but about half of its numbers were unarmed. Col. Stand Watie, who was on a scout to Webber's Falls, where the enemy were reported crossing, has not joined. Many of the Cherokees have left to look after their families. Of the two regiments, there are probably not more than 100 in camp. General Cabell's brigade has been ordered to the vicinity of Fort Smith to resist a threatened movement from Cassville, and in the hope that the movement in that direction would arrest the desertions in the Arkansas troops. My communications by way of Fort Smith have been rendered very uncertain by recent movements. (War of the Rebellion, Official Records of the Union and Confederates Armies. Series I, Vol. XXII, pp. 599-600.)

bodied men were in the army, and the labor of planting and cultivating devolved almost entirely on the women and children.[13] It had been represented that the country was clear of rebels, and under that assurance a large body of refugees had returned to their country, relying on the protection of the regiment at Fort Gibson under Colonel Phillips. But the rebel forces were still active under the leadership of Stand Watie. The loyal Indians had barely succeeded in getting their crops under way, when, about May 21, Stand Watie and his band entered the Territory and, according to the report of the United States agent, robbed the women and children of everything they could find, and took off horses, cattle, wagons, farming utensils, etc., drove off the inhabitants. Robbing, sometimes murdering and burning, continued without abatement until July. Most of the inhabitants fled to Fort Gibson, where they had to be subsisted by government supplies sent down from Fort Scott, over a road constantly beset by guerilla bands.

Early in 1864 the Union forces, under Col. W. A. Phillips, commanding the Indian brigade, started on a campaign toward southern Indian Territory with the purpose of driving the enemy into Texas. From Little Rivertown, near old Fort Arbuckle, Colonel Phillips reported on February 16, 1864, that all the Canadian valley and its tributaries had been swept clear of the rebels, and that it was his intention to leave no subsistence for a rebel army, or forage, so that all the supplies would have to come from Red river in any movement undertaken against Arkansas. Later in the same month (February 24), after returning to Fort Gibson, he reported: "I do not hesitate to say that the expedition has been more eminently successful than any ever undertaken in the Indian country. So far as the rebel Creek, Seminole, and Chickasaw nations are concerned, the war is over. They have been destroyed or driven from their country. Those who are not seeking peace are fleeing to Mexico, and the Choctaw Nation is in council. The severity of the blow has stricken terror to the enemy. My command reached a point near Red river valley, 165 miles south-southwest of this place. We marched about 400 miles; killed, as nearly as I can get information, in the different fights and skirmishes, 250 men, and have only four wounded, all of whom will recover."[14]

[13] Exec. Doc., 1st Sess., 38th Cong.

[14] During this campaign Colonel Phillips addressed letters to the governor of the Chickasaws, to the Choctaw council and to the chief of the Seminoles, declaring that the end of the rebellion was near and demanding the return of the southern Indians to their old allegiance. In his letter to the Choctaw council, he said: "I want to say to you who are acting for the Choctaw Nation and people that the president of the United States has issued a proclamation offering peace and mercy. The rebellion is coming to an end, its paper money is worthless, its means destroyed, but little of it left, and that fast going to destruction. I should not write to you, but I know you have been grossly deceived by those rebels, who made this wicked and unnecessary war to overthrow a good government, a government under which all had their rights, and which you know never wronged you. The president does not wish to destroy you, but everything will be destroyed that stands in the way of peace to the great republic. As your friend and the friend of peace in the Indian Territory, I write to you to think of these things, and to see whether your people want to be destroyed in the vain hope of giving aid to a wicked rebellion. There is no possible reason why you should want to rebel against the government that fed and protected you, and under which you had peace. Peace you will never have again until you come back to its shelter. Do not deceive your people. God will curse and they upbraid you if you do. You have to choose between peace and mercy and destruction. Bad men have deceived you and bought you with a little money that never did you any good. It will not be long before destruction comes. I think you understand I am in earnest. Do you want peace? If so, let

In the fall of 1864 occurred the last important movement of the Confederates into Missouri and Kansas. The main part of the campaign was Price's expedition into Missouri. With a large force he moved up from Arkansas toward the Missouri river, threatening St. Louis, and then turning westward advanced along the river to the Kansas line. His aggressive movement was checked at Independence, Missouri, and in a series of engagements along the Kansas line he was forced back into Arkansas, without having effected any important advantage by his campaign, nor succeeding in drawing away any portion of the federal armies from their operations east of the Mississippi.

As a co-operating movement with the Price expedition, the Confederate forces in Indian Territory planned and carried out their last effective raid north of the Arkansas. It was planned to send Stand Watie up the Neosho valley into Kansas, his forces acting as a flanking movement in conjunction with the Missouri expedition. As the first stage of this scheme, Generals Watie and Gano were ordered, in September, north of the Arkansas to raid towards the Kansas line, and perhaps intercept the federal train coming south from Fort Scott.

The outcome of this excursion was the capture, by General Gano, of a big train of supplies at Cabin Creek, which was one of the notable exploits of the southern troops in Indian Territory during the war. The value of the train was estimated at a million dollars, and was specially useful in furnishing the southern Indians supplies of clothing and other equipment of which they had been sorely in need from almost the beginning of the war.

Major Henry Hopkins, of the Second Kansas Cavalry, who commanded the supply train from Fort Scott to Fort Gibson, had a force of about 600 whites and Indians. He reached Horse creek on the night of September 17th, and, here learning of the approach of the enemy, hastened on to a position on Cabin creek, where he arrived on the 18th. The enemy were strongly posted in a hollow on the prairie, according to his report, and shortly after midnight they attacked. At the beginning of the fight the teamsters stampeded, and taking with them one or two mules from each wagon, it became impossible to move the train. The federal guard succeeded in holding their position till morning, when the Confederates charged and drove them from the train, which thus fell into the possession of Gano's men. Major Hopkins, failing to receive reinforcements, and being unable to regain his position, made good his retreat in the direction of Fort Gibson. General R. M. Gano's interesting report of this raid north of the Arkansas is given below.[15]

me know before we come to destroy." ("War of Rebellion," Ser. I, Vol. XXXIV, Pt. I.)

[15] I left camp on the morning of the 14th with 1,200 men from my brigade and Howell's battery. Was accompanied by General Watie, with a detachment of 800 men from his brigade to make an expedition north of the Arkansas River. We proceeded to Prairie Springs and encamped on the night of the 14th.

About noon on the 15th instant we arrived at the Arkansas River and found it swollen so as to make it a difficult passage. It required six hours to cross the river; hard work. All the artillery ammunition had to be packed over by hand, and many of our brave boys were plunged beneath the waves in consequence of quicksands. We encamped in the river bottom, two miles above Redbank's Ford and thirteen miles northwest from Fort Gibson.

On the 16th we proceeded on our way, crossing the Verdigris at Sand Town Ford, about eight miles from the hay camp at Flat Rock. From this point I sent Gurley's regiment, accompanied and piloted by a detachment from General Watie's

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Colonel Phillips, from Fort Gibson, on January 8, 1865, reported the condition of the Indian country at that time. He says: "The rebels have still a military organization numerically much greater than ours. We have about two-thirds of the people and fighting men of the Cherokee Nation. The Second and Third Indian Home Guards are Cherokees (full and half-breed). We have about half of the Creeks. The First Indian is Creek, except one company of Seminoles and one of Uchees. The rebels have two Cherokee regiments. They still have an

command, around to the rear of the enemy's camp, while we proceeded slowly toward the camp. General Watie and staff, with my staff, accompanied me to the top of a mountain, while the command was halted below, and from our elevated position we could view their camps, and with spy glasses could see them at work making hay, little dreaming that the rebels were watching them. From thence we moved to within one mile of their camp unperceived, and I sent Lieutenant-Colonel Welch to the right with a column composed of the Twenty-ninth and Thirty-first Texas Cavalry (De Morse's and Hardeman's), while General Watie conducted the Indian column to the left, while I carried forward the center, with Howell's battery supported by Martin's regiment, the Gano Guards, under Captain Welch, and Head's and Glass' detachment of companies. I could distinctly see Captain Strayhorn formed in the enemy's rear. The clouds looked somber and the V-shaped procession grand as we moved forward in the work of death. Then commenced a running fight with the enemy's cavalry, while with the center I moved down and engaged their infantry. I sent Major Stackpole with a captured Federal lieutenant under flag of truce to demand surrender, but they fired upon my flag and then commenced the work of death in earnest. The sun witnessed our complete success, and its last lingering rays rested upon a field of blood. Seventy-three Federals, mostly negroes, lay dead upon the field.

We captured 85 prisoners and left 5 badly wounded. We captured and destroyed their camps and stores with large quantities of hay. Our loss was 8 wounded.

We slept upon the battle-ground and found next morning the enemy at sunrise on the 17th advancing from north and south. I sent Hardeman's battalion, under Major Looscan, southward to meet the force from Fort Gibson, while we proceeded northward and drove off the cavalry without a fight. Major Looscan engaged the enemy, killing one and losing none. We now proceeded with the whole force northward toward Fort Scott to meet the expected train. We proceeded almost to Bock Creek, and hearing nothing of the train we feared lest they might have taken the road east of Grand River. We encamped on Wolf Creek midway between the roads; scouted both and learned that the train had not passed.

On the morning of the 18th, I proceeded with 400 men and two pieces of artillery toward Cabin Creek, leaving General Watie in command of the camp. I found the enemy at Cabin Creek with a train of 255 wagons and an immense herd of mules grazing on the prairie. We were as yet undiscovered, and I despatched a courier to General Watie to bring up the balance of our force and the other four guns, which he did without delay. The enemy found us before dark, but my force was secreted and their efforts to ascertain our strength were ineffectual.

General Watie arrived about 12 o'clock, and I immediately moved the whole column forward, Lieutenant-Colonel Welch's command in front with the Gano Guards and Head's company as flankers. When within half a mile of the enemy I formed in line of battle, Colonel Welch on the right, second Major Mayrant, third Howell's battery, supported by the Gano Guards, Head's and Glass' companies; fourth Major Looscan and Captain Strayhorn, commanding Gurley's regiment, on the left. General Watie's command was formed on the left of my brigade. Having ascertained that the enemy were about moving their train, I advanced the entire line to within 500 yards of the enemy's position. An officer came out in the darkness to hold converse, and having informed us that they were Federals and learned that we were rebels, he called on God to damn us, and invited us forward.

I asked him if he would receive a flag from us. He said he would answer in five minutes. I waited fifteen, and hearing some wagons moving I advanced my line about 3 a. m., and when within 300 yards or less of their fortifications they opened fire. We replied with small arms and artillery. The teamsters, demoralized, fled and left their teams to tangle up in the timber and break off wagon tongues. Some teams ran over the cliffs and the wagons crushed the teams to death. Not being able to see the fortifications and having accomplished my design of stopping the train, I moved my command back under the brow of the hill and awaited daybreak. There was a rest for

organization of two Creek regiments, a battalion of Chickasaws, one of Seminoles, a company of Caddos, and the whole Choctaw Nation, except about 100 persons, men, women, and children. They have had, and are still reported to have, the organization of three Choctaw regiments. The rebel refugees, or women and children and non-combatants, are clustered in camps or colonies they have been making on Kiamichi, Boggy, Blue and Washita rivers. Their soldiers are mostly mounted, and the country between is overrun with hostile forces, and desert, so far as crops are concerned, but there is still plenty of stock there. With the rebel Indian soldiers, in the rebel

near one hour, when the wagons began to stir again. I moved forward and gave them several more volleys and retired again.

Soon day broke and the dawn revealed to us what appeared to us to be immense earth-works, but afterward proved to be immense hay ricks, ten in number, and just in the rear of said ricks a strong fortification constructed of logs set up in the earth. To the left the timber along the bluff of Cabin Creek was filled with wagons and mules, and from behind all these the enemy sent missiles of death. I changed the position of the artillery so as to command the hay ricks and wagons, and got General Watie to send Colonel Vann with the two Cherokee regiments across to capture all wagons that might have left before day. I dismounted Colonel Jumper's command to assist in supporting the battery, and afterward ordered Gurley's regiment to that post and Jumper in the timber to flank the enemy's right. He doubled back their right and drove them full 150 yards, when they came to a stand. Now appeared a crisis, and I charged them with Gurley's regiment, leading them in person, and would have carried the position but for a gully some twenty-five yards in the rear filled with armed men who had not yet participated. They were not visible until within twenty-five or thirty yards of them. We were compelled to fall back, but not one man of the gallant Thirtieth started from that murderous fire until I ordered them to do so. I then ordered Captain Strayhorn, Lieutenant-Colonel Welch, and Major Mayrant to take the timber and drive the right, the Creeks and Seminoles having exhausted their ammunition, while Howell, Looscan, and Captain Welch poured their fire into the original front, now the enemy's flank. Crash after crash of shell swept Yankees, negroes, Pins, and mules away from the land of the living, while every regiment and company poured in volley after volley, and the brave Indians, having replenished with ammunition, came again to the work, and all with a loud shout rushed on to victory, driving the enemy beyond their fortifications, from where they fled in wild confusion to the densely timbered bottoms.

At 9 o'clock (six hours after the first volley was fired) the field was ours, with more than $1,000,000 worth of Federal property in our hands. We burned all the broken wagons and killed all the crippled mules. We brought off 130 wagons and 740 mules. We clothed 2,000 men of the expedition so as to make them comfortable for the present and have some commissaries on hand.

The killed of the enemy at Cabin Creek numbered about 23; the wounded not known; captured 26. The jaded condition of our already weak horses prevented us from capturing as many as we might have done. Our loss was 6 killed, 45 wounded—3 mortally.

As we moved back with our train we met a reenforcement from Forts Smith and Gibson going up to protect the train, consisting of infantry, artillery and cavalry. We drove them back three miles and a half, held them in check all night, and created the impression that we had parked the train for the night by running an empty wagon over a rocky place for two hours, while our train was being moved with all possible dispatch toward Arkansas river. The day found us separating rapidly, we following our train, while they were retreating toward Fort Gibson. We expected to fight at Arkansas river, and hurried forward with all dispatch day and night. For three days and nights our boys were without sleep, except such as they could snatch in the saddle or at watering places. They dug down banks, cut out trees, rolled wagons and artillery up hills and banks by hand, kept cheerful, and never wearied in the good cause, and came into camp rejoicing on the 28th instant.

We were out fourteen days, marched over 400 miles, killed 97, wounded many, captured 111 prisoners, burned 6,000 tons of hay and all the reapers or mowers—destroyed altogether from the Federals, $1,500,000 worth of property, bringing safely into our lines nearly one-third of this amount (estimated in greenbacks).

Our total loss was 6 killed, 48 wounded—3 mortally. (Gano's account—War of the Rebellion, Official Records of the Union and Confederate Armies, Series I, Vol. XLI, pp. 788-791.)

Indian department, there is a brigade of Texas and Arkansas troops, under General Gano. Generals Cooper and Stand Watie are also in command. Their artillery is at present rather better than ours. Around Fort Gibson are from 8,000 to 10,000 refugees, the larger portion of whom are Creeks, or people whose homes are south of the Arkansas river. Some 7,000 or 8,000 of these later were brought down here by the superintendent last June, too late to raise a crop.

"Scattered through the Cherokee Nation, at their homes, are as many more loyal non-combatants. In all, upward of 20,000 persons depend for protection on the military force here. The refugees here were brought in hired transportation and left here, and cannot move as they are. An order to move my force elsewhere would leave them at the mercy of the rebels, if, indeed, it would be possible at all to move these soldiers away, to leave their women, children, old and sick people. Under the orders received it was necessary, since my return, for the Fifty-fourth U. S. Colored and the First Arkansas Infantry to march below. This leaves me simply the Indian command. My tri-monthly of the 31st ultimo shows that to be an aggregate of 2,112; 1,463 are present for duty; 382 escorting train. The evacuation of Fort Smith will leave this place rather weak, but I think I can hold my own until you determine what is to be the future of this command. The orders I have received so instruct me. For the future I make no recommendation, being ignorant of the policy determined about the Indian Nation. With the present Indian force, a good infantry regiment and good battery, and mounting half of the Indians, I think the country north of the Arkansas river, in the Indian Nation, could be held by making a vigorous use of the force. Unless the country north of the river be held it is doubtful about our holding any foothold in the Indian Nation, and the probabilities are that it would be organized against us. Efforts have been made, and are made by the enemy, to get these civilized and half-civilized Indians into a sort of neutrality league, which would, of course, eventually operate to their benefit."

The raiding armies from both sides that for four years swept back and forth between Kansas and the Red river, the disunion of tribes, the losses of killed and wounded in battle, and the desolation and suffering caused by actual warfare, were disastrous to the settled prosperity and to continued advancement of the Indian Territory. But these were not the only ills from which the territory suffered in consequence of the war. To the horrors of war were added the greed and rapacity of unscrupulous men. Individual and sporadic crime would have been expected, but during 1864 and 1865, under cover of the distractions of war, an organized and wholesale system of thievery sprang up that completed the desolation that the contending armies had partially wrought. The description of this phase of the war is not a pleasant one, but has a place with other records.

In his report for 1864 the commissioner of Indian affairs says: "There is perhaps no portion of country, of equal extent, within our territorial limits, better adapted to the business of stock-raising than is the country owned by these people [referring particularly to the Cherokees]. Prior to the rebellion they had engaged in this business very extensively and many of them owned herds of cattle numbered by thousands. When the people were driven forth their stock was necessarily left behind, and to

roam at large without ostensible owners. The rebels have availed themselves of this condition to furnish themselves with immense supplies of beef for their armies; and to the disgrace of our own people, it must be said that many of them have also engaged in the nefarious business of stealing cattle from these defenseless, unfortunate and truly loyal people."

Col. W. A. Phillips addressed the following communication to General Canby, dated at Fort Gibson, Feb. 16, 1865: "I desire to notify you of encroachments on the rights of the people of the Indian Nation from the department of Kansas by citizens thereof and volunteer officers and soldiers stationed there. I desire that you communicate with the major-general commanding the Division of Missouri, to secure his assistance in putting a stop to evils that have assumed fearful proportions, and for the protection of interests so justly entitled to it. I desire to state that for nearly a year past there has been a systematic and wholesale plundering and driving of stock from the Indian Nation to Kansas. Part of this is the property of loyal soldiers in our service, part of loyal citizens, and part of disloyal persons now in arms against us or aiding those who are. The devastations of war have depopulated the Creek Nation; two-thirds of the homes in the Cherokee Nation are abandoned. The rebel or disloyal Indians are clustered in colonies on the streams tributary to the Red river. The loyal Indians, who adhere to our cause, are clustered around Gibson, or in colonies depending upon it for protection. The stock, or herds, of all, or what is left of it, is, of course, scattered or unwatched on its range. This condition of affairs invited the somewhat wholesale enterprises by which it has been driven into Kansas. The Arkansas river for the past two years may be said to have been the boundary between the belligerents. Since the siege of Gibson was raised in July, 1863, by General Cooper, no rebel army has camped on its southern lands. It is true considerable mounted parties have crossed it. A train was captured sixty miles in the rear of this place in September last by a large mounted force; but north of the river, or even fifty miles south of it, any rebel occupancy is only of the character of raids. I obtain all the beef for the command and for the many refugees from south of the river, or from the stock subject to be taken by the enemy. I merely desire to show that there is no necessity for commands of troops to enter the nation, 150 miles in my rear, on the pretext of scouting, which really drive off cattle. I would inform you that a very considerable portion of such stock was driven off by troops from Kansas. I will mention one or two cases in which there is ample and clear testimony. Captain Vittum, of the Third Wisconsin Cavalry, last April entered the nation with a train. On his return he gathered a herd of 500 or 600 and drove it out. The same officer entered the nation about the last of May or first of June as escort for two officers coming down to Fort Smith. He stopped forty miles above Gibson and went back, driving out a large herd. He is now provost-marshal at Fort Scott, which will give you an idea of the police regulations on the northern border of the nation, on which I have to lean. On application to General Curtis last summer I was informed that the matter was merely one for adjudication in the courts. In the nation there is no federal court in time of peace—not even the Indian courts exist now. The necessary protection is dependent to a great extent on the military power temporarily existing. I think I can stop it here; if I had

horses for my men at least, I could, with co-operation from above, or [sic] respect from them to orders issued here. The Indian soldiers are more to be trusted for their own protection than others. They are amenable to each other as well as to the government. Most of the white regiments that have entered the Indian Nation commit more or less depredations. They treat it as if it were an enemy's country. I, however, desired to secure through you sufficient protection from the department above to stop the nefarious system which appears to have a thorough organization in the state of Kansas, believing that unless prompt steps were taken the same nefarious transactions would be continued this season."

The depredations committed in the Indian country by unprincipled white men acting or assuming to act in official capacity were noted by the commissioner of Indian affairs in his report for 1865, in reviewing conditions in the territory during the last months of the rebellion. Referring to that time, he says: "Serious complaints were being made to the department that stock owned by the Indians, and necessary for their subsistence, and the small crops of corn raised by those who had been able to till the ground, were being taken from them by unprincipled speculators. Some of the military officers had laid the blame for this state of things upon the Indian agents, but an investigation of these charges showed them to be without foundation. The most stringent rules and regulations in regard to the sale of stock from the Indian country were adopted and issued, but it is apparent that the practice of running stock out of the country has continued, the keenness of the speculators enabling them to elude the vigilance of the officers, and it is believed that an immense amount of such stolen stock has been purchased at large prices by the government. The information given by Superintendent Sells, as given in his report,[18] furnishes some idea of the enormous extent as well as profit of the business, where contractors obtain ready sale for the plunder at such rates as they have received from the government."

Many prominent men, merchants, military officers, Indian agents, traders and others, were charged with being implicated in this traffic. But, said the commissioner, such "an obliquity of conscience had affected the

[18] The report referred to says: "I was convinced that there was in successful operation a regularly organized band of cattle operators, which organization had its plans so completely systematized, with sentinels and scouts, together with its numerous employes as drivers, that they generally succeeded in driving off with impunity all the herds of cattle coming within the range of their operations. . . . It is utterly impossible to effectually break up this system of plunder from the Indians as long as the state, civil and military authorities are in sympathy with the parties engaged in this species of brokerage. . . . I think it is not doing violence to the truth to say that since the commencement of the rebellion three hundred thousand head of cattle have been driven from the Indian country without the consent of the owners and without remuneration, which at an average value of fifteen dollars per head will amount to the enormous sum of four million five hundred thousand dollars. There are two classes of operators connected with cattle-driving from the Indian country. The first are those who take the risk of driving from their original range—the home of the owners—who are generally men of no character and wholly irresponsible. They usually drive to the southern borders of Kansas, where the second class are waiting, through their agents, to receive the stolen property. These cattle brokers, claiming to be legitimate dealers, purchase at nominal prices, taking bills of sale, and from thence the cattle are driven to market, where enormous profits are made. These brokers have met with such unparalleled success that the mania for this profitable enterprise has become contagious. The number directly and remotely engaged is so numerous, the social standing and character of the operators secure so much power, that it is almost fatal to interpose obstacles in the way of their success."

whole community on the border," that it seemed scarcely worth while to attempt to prosecute them before any court in Kansas, because, as one investigator reported, "they openly make their boasts that they can buy men enough to swear to anything they want them to, and I know they speak the truth from experience."

Agent Harlan of the Cherokees reported the methods of the cattle raiders as follows: "A man, wishing to get Indian cattle, went to some general or the post commander, or to the superintendent of the Indian affairs, and got a license to buy cattle in the Indian Territory; he then arrived with his license, without money, and only a cattle whip, raised a company of some white men, and mostly Osage and Wichita Indians. They went on until cattle began to be plenty; the gentleman of the license came to Fort Gibson, proclaimed his business was to buy cattle. He did not come to steal, not he! He intended to buy and pay a fair price; went to the post commander, showed his license, proclaimed his intentions not to be as others were, to steal; he could make by fair trade as much as he wanted. He had a little money, and had concluded to turn it into cattle. He wanted to see the country, and perhaps he could make as much as would pay his expenses, and a little for his time. He was not seeking to get rich, only wanted to 'live and let live,' and any amount of just such stuff.

"They were all alike. It looked as if they had all been educated in the same school; flattered the commanding officer and got his license indorsed. They would hang around Fort Gibson ten or twelve days, still inquiring where there were large herds for sale, where he could buy at a living price. One fine morning the man was missing, and nobody knew when he went or where he was gone. In about ten days some gentleman coming to Fort Gibson had on his way down met the licensed gentleman with a drove of cattle, from five to fifteen hundred head, on his way into Kansas. Some with license to buy never presented their license, but at once commenced gathering their cattle, running what little risk there was of being caught, and then escaping under their license. Others, more bold, went at it without any disguise of a license, and stole all they could find, and sold them to those who were glad the stealing was done. . . . "

The condition of the Indian country at the close of the war, in contrast to its comparative prosperity and advancement in 1860, was described by the commissioner of Indian affairs in 1865. Most of the tribes, he declares, "had advanced far in civilization, and their country was well provided with good schools and academies. Many of their leading men are today thoroughly educated men, of statesmanlike views, fully able to express those views in our language, in a manner which can be excelled in few of our deliberative assemblies. Their people were rich in real and personal property, living in the enjoyment of everything needed for their comfort; and considerable wealth had accumulated in the hands of some of them—the slaveholders—so that they lived in a style of luxury to which our thriving northern villages are mostly unaccustomed. Their crops were abundant, but their chief element of prosperity was stock-raising, and vast herds of cattle were in their hands as a means of wealth. The change is pitiful. Their land has been desolated by the demon of war till it lies bare and scathed, with only ruins to show that men have ever dwelt there. A perusal of the reports herewith will satisfy you that these remarks are no exaggeration, particularly as to the Cherokee, Quapaw, and part of the Creek bands; the condition of

affairs in the Choctaw and Chickasaw country is not so serious, for the reason that those tribes went almost unanimously with the rebellion, and of course had no object in destroying their own property; though even there the effects of the war are distinctly visible. But in the Cherokee country, where the contending armies have moved to and fro—where their foraging parties have gone at will, sparing neither friend nor foe—where the disloyal Cherokees, in the service of the rebel government were determined that no trace of the homesteads of their loyal brethren should remain for their return, and where the swindling cattle-thieves have made their ill-gotten gains for two years past, the scene is one of utter desolation. Of course, the loyal portions of all of these tribes have suffered most; for they became refugees from their homes, leaving them in the hands of their enemies, and everything that they left was destroyed. A large number of the loyal Indians of all the tribes entered the service of the United States, and many of them sealed their fidelity with their life-blood, while many others are maimed for life. Now that the war is over, the survivors of these loyal bands claim the sympathy and aid of the government. They are anxious to return to their country, but they have no homes there, and no subsistence. They are utterly destitute, and entirely dependent upon the government for food and clothing. In another season, if timely assistance in the way of agricultural implements and other aid is afforded them, they may become self-sustaining by tilling the ground; but for the present, at least, they must be dependent upon the government."

"The Seminoles numbered before the war nearly 2,500, of whom more than half came out with the loyal Creeks and took refuge in Kansas, their able-bodied men joining the United States army. There are about 2,000 of the tribe left. Some 500 of them were furnished with seed and a few agricultural implements last spring, and, upon land near Fort Gibson, in the Cherokee country, labored diligently and with some degree of success for the means of subsistence, having raised produce to the value of $2,500. The records of their old agency have been preserved through the war, and are safe at Fort Washita. They are anxious to go to their own country south and west of the Creek region, but matters there are not sufficiently settled as yet, and the agent thinks that they should be removed to some point among the Creeks and subsisted there, to be near their own lands at the opening of spring. About 1,000 of them are now drawing rations from government. They are very poor and destitute, and must be fed and clothed, or suffer and starve. Agent Reynolds says that they wish to settle upon individual lands, where they can own and enjoy the fruit of their own labors. As they are closely allied to the Creeks, and speak that language, they might perhaps be consolidated with them; or, if not, it is thought that they would be glad to dispose of the western portion of their lands, to be used for a home for other Indians, and thus procure the means for establishing themselves again in a condition to become self-supporting, and educate their children.

"Agent Reynolds has been especially active in efforts to stop the plundering of Indian stock, and thinks that his efforts have been successful.

"Of the Cherokees, all of the nation at first joined the rebels, including all factions, of full and mixed blood. Regiments were raised by the order of the party in power, then and now the majority, called the Ross party, which regiments fought against the

Union forces at Pea Ridge and on other occasions.

"All seem to have agreed as to their course of action down to the fall of 1862, when a portion of the troops, under Colonel Downing, 2d chief, and a majority of the nation, abandoned the rebel cause and came within our lines. About 6,500 of the more wealthy portion still continued to co-operate with the south till the close of the war; and about 9,000, early and late, came back to their allegiance.

"Two regiments of these people, numbering 2,200 men, deserted the rebel cause as above stated, and since that time, to the end of the war, have fought on the side of the Union. The total population of the nation is now estimated at about 14,000.

"Bad as is the condition of all these southern Indians, that of the Cherokees is much worse than the remainder of the tribes. They have a domestic feud, of long standing, which prevents them from coming together for mutual aid and support in their manifold troubles. In 1863 a portion of them had gone back to their country, expecting to be protected by the United States troops in raising a crop for their support; but they were driven from their fields by rebel parties; and while their former brothers were plundering them from one direction, their white friends from Kansas were stripping the country of their stock from the other. The account given by Agent Harlan of the modus operandi of cattle-thieving business would be amusing, if the thing described were not outrageously criminal. Some idea of the extent of this business may be obtained when it is seen that the agent estimates the losses of the Cherokees in stock alone at two millions ($2,000,000) while Superintendent Sells thinks that the losses of all the tribes have amounted to fully four millions.

"About 9,000 Cherokees are now receiving rations from government, and a large portion of those lately disloyal are suffering greatly for the necessaries of life. They need food, clothing, tools, everything in fact, to begin life again; and their condition must be that of extreme destitution until they can again realize the fruits of their labor upon their own soil. The Cherokees own a tract of 800,000 acres in the southeast corner of Kansas, which should be made available for their benefit; and have, besides, a vast tract of land below the Kansas line, very largely beyond their possible wants. All beyond those wants should be purchased by government, and the avails used for the benefit of the whole people. Superintendent Sells doubts whether the loyal and disloyal Cherokees can ever live in friendship together, and suggests that in case this proves to be impossible, the latter can easily make terms with the Chickasaws to join with them.

"I have already alluded to the condition in which this southern portion of the nation is left by the action of the party in power, and will only add here, that the sweeping act of confiscation passed by the council takes from them every acre of land, and all of their improvements; and that by the hasty action taken under the law, everything has been sold for the most trivial consideration, improvements which were worth thousands selling often as low as five dollars; and when the repentant rebel party, no more guilty at first than the Ross party, came back and proposed to submit and live in peace and harmony with them again, they were told that they might all return, except their leaders, and go upon new lands and begin the world again; but no hope was held out to them of any restoration of property. They are thus left entirely depend-

ent, being stripped of everything by the act referred to.

"The Creeks were nearly divided in sentiment at the opening of the war; about 6,500 having gone with the rebellion, while the remainder, under the lead of brave old chief Opothleyoholo, resisted all temptations of the rebel agents and of leading men, like John Ross, among the Indians, and fought their way out of the country northward, in the winter, tracked by their bloody feet upon the frozen ground. They lost everything—houses, homes, stock, everything that they possessed. Many joined the United States army. A large number have been constantly subsisted, often with scanty rations, by government. A part having gone this year to the Indian country, have raised some crops under many difficulties, and about one-half of those who thus went south again will have enough corn to carry them through the winter; the others must be subsisted by government, while 5,000 are now receiving rations. A large number of the southern Creeks are in the same deplorable state. The aggregate number of the tribe is now stated at 14,396. Agent Dunn says that the buildings of the old Creek agency are in ruins, but the valuable mission buildings are standing, though badly injured. He thinks that a new location should be selected for the agency, at a point where there is water and timber; but as there may be other arrangements made as to the final settlement of the tribe, he suggests that such temporary shelter for the agency as is necessary should now be provided.

"The Choctaws and Chickasaws, who now number respectively about 12,500 and 4,500, or 17,000 in all, are supposed to have had a population of 25,000 at the beginning of the war, including 5,000 slaves. They have regularly organized governments and legislatures, written laws, and a regular judiciary system.

"They possessed admirable schools, and education had made great progress among them. Nearly the whole of these tribes proved disloyal, under the various influences brought to bear upon them. Agent Coleman ascribes their disloyalty, in a great degree, to the influence of the whites living among them, some of whom have had the assurance to apply for licenses to remain in the country as traders; but I am entirely satisfied, as the result of my inquiries when lately in the Indian country, that the disloyal action of these tribes is mostly, if not altogether, to be ascribed to the influence of the then superintendent, Mr. Rector, and the agents appointed by the United States government. The tribes are educated to respect the authority and be guided by the directions of these representatives of the government; and when, in the spring of 1861, these men, appointed under President Buchanan, came back from Washington and told the Indians that there was no longer a United States government to protect them, that its organization was broken up, and that they must join with the new government (which by its location and its slave-holding basis would be in sympathy with them), or be ground to powder, they readily acceded. They now see their error. No men were ever more penitent; and since they learned at the Fort Smith council the wishes of the government, their own council has met and taken prompt action upon the proposition submitted to them, and appointed a delegation to visit Washington to sign a final treaty. This appears more fully in the despatch from General Hunt, commanding at Fort Smith, dated October 24, communicating a letter

from Governor Colbert, of the Chickasaw nation, which despatch will be found among the accompanying documents.[17]

"Only 212 persons belonging to these tribes are known to have remained loyal to the government. The disloyal portion need some help to get through the winter without suffering, but their country having been held by the rebels all the time during the war, and not traversed by the contending armies, and rations having been issued to them till last March, they have not suffered as much as the other tribes. Two thousand of both tribes are now receiving government rations. I have elsewhere referred to the propositions in regard to accession of a portion of the Choctaw and Chickasaw lands.

"Agent Snow has in charge the Neosho agency, comprising the Osages, and the small bands known as the Quapaws, Senecas, and Senecas and Shawnees.

"The Osage lands are in Kansas, and comprise about 4,000,000 acres. In 1859 they had a population of 3,500; the agent thinks that their number does not exceed 2,800. About 1,000 of the tribe joined the rebellion. Some two hundred and forty of their warriors were at one time in the service of the United States, but left from some difficulty with their officers, and cannot understand the propriety of the rule by which they have forfeited their pay. The report of Superintendent Sells is very full in its information as to the habits and mode of life of this tribe, which is entirely nomadic in its character, using the bow and arrow in the chase, and hunting the buffalo in the ranges southwest of their country. . . . The sad example of the whites, who steal their stock, leads them to retaliate, and frequent collisions and difficulties with the settlers are the consequence. By the recent treaty with this tribe, their factions have become reconciled; and by the cession to the United States of a large body of land, it will be open to settlement, and they obtain from its avails the means of becoming civilized. In view of their nomadic habits, however, Agent Snow suggests their entire removal from Kansas and the neighborhood of the whites, and settlement upon lands in the western part of the Indian country, near the buffalo range; which suggestion I approve, and trust that within a few months their country will be so far at the disposal of the government, through the operation of the treaties now in progress, as the result of the recent council, that these and all of the other Kansas Indians who do not elect to become citizens may be removed into the Indian country.

"The Quapaws and other small tribes of this agency, numbering only 670 in all, never showed any sympathy with the rebellion, but came north, abandoning their homes, and continued as refugees upon the Ottawa reservation until last spring, when they were removed to a point eighty miles

[17] The letter from Governor Colbert, here referred to, contains an interesting proposition, made by the Chickasaw legislature, to provide for the freed men under an "indentured servant" system, similar to the method adopted by slave-holding settlers in the Mexican province of Texas to escape the Mexican laws forbidding slavery. The plan suggested by Governor Colbert was: To apprentice all free negroes under 21 years until of age, to their former owners, provide for the aged over fifty, infirm, and employ the middle-aged at fair wages. "This system," said the governor, "is the self-same under which Pennsylvania and other northern states got rid of slavery, and it is hoped will meet the approval of the president and people of the non-slave-holding states. It appears to cover the requirements of the United States government that when emancipated, the negroes shall be properly cared for."

further south, where they have raised some small supply of vegetables this year. An exploration of their former reservation, just below the Kansas line, exhibited the usual desolation of war; and everything must be provided anew for them. They had attained a fair degree of civilization, and were prosperous and comfortable before the war; and they, like the other loyal Indians, think that the government for which they suffered the loss of everything, should in some degree compensate them for such loss. These people all receive rations at present from the United States.

"The Catholic mission school at the Neosho agency has been continued in operation, though under great difficulties. On the occasion of the recent visit of Superintendent Sells to the agency, the school had in attendance sixty-five Osage and Quapaw boys, and fifty girls. The Indians regard this school with great favor.

"The Wichita agency (Agent Gookins in charge) comprises about 500 Shawnees, absentees from their tribes in Kansas, and who, it is probable, will not return to that state to remain permanently, but who are now in Osage county, Kansas; and the Wichitas and fragments of the Caddoes, Comanches, and others, amounting to about 1,800. These last were, before the war, settled upon lands leased from the Choctaws. They have never had much attention given them by the government, and were driven from Texas by the greed of white men. Thus they have not for years had a settled home. About 1,000 of them are now near Fort Washita, having done but little towards subsisting themselves, a flood having destroyed most of their crops. They are very poor and miserable, and must have help; and they ask to be placed somewhere, where they can feel that they have a permanent home, and go to work in earnest next spring. Rations are issued to 1,400 of the Indians belonging to this agency."

PART II

ISOLATION VERSUS INTRUSION

CHAPTER IX

ORGANIZATION OF AN INDIAN TERRITORY AND CONSOLIDATION OF THE TRIBES

The policy of Calhoun and Monroe, of the Jackson administration as enunciated in the legislation of 1830, and as put into effect during the decades of the twenties and thirties, was subjected to changing national conditions that were never foreseen, or at least not provided for, by those who first outlined and put into effect the scheme of Indian seclusion. "The Indian country for the Indians" is the keynote of the history of the Indian country during the first half of the nineteenth century, and under that subject title the developments of that period have been described on preceding pages. A second period now appears in the history of Indian Territory, during which the early policy, though subjected to many modifications incident to our national growth and changed political conditions, was sought to be maintained and defended against an encroaching power that eventually forced the Indian tribes into the current of American life and compelled them to share alike in the responsibilities of our political system and adapt themselves to the customs of the white race.

It will first be necessary to discuss the political relations of the Indians with the United States, and the early efforts made to bring the tribes into a working connection with the general government. From the history of these attempts it will be seen that the political destiny of the Indian Territory has been the subject of attention on the part of Congress since the region west of the Mississippi was first set aside for Indian occupation; that it has been wrought out and modified from time to time by the varied events of our national history; and that Oklahoma statehood has been the product of political and economic movements that have been going on for the greater part of a century.

The formation of a distinct political government for the Indian tribes seems to have been contemplated by the government in its earlier relations with the Indians, and from time to time up to the final incorporation of the Territory in a state, was attempted by Congress in legislation and by some of the Indian nations and the Indian authorities in practical action. The Delaware treaty of 1778 mentioned the possible formation of an Indian state, with a representative in Congress. The subsequent removal and concentration of the Indians on lands west of the Mississippi, where they were to remain free from the jurisdiction of any state, was, in effect, not only a guarantee of the integrity of the Indian country and of the right of the individual tribes to regulate their own affairs, but also a recognition of some general relationship that should exist between the collected tribes and the general government of the United States—in other words, that Indian Territory would have a similar status, politically, with the other territories in the federal scheme.[1]

December 16, 1824, the house committee

[1] See reports of committees, 1st Sess., 30th Cong., Rep. No. 736, June 27, 1848.

on Indian affairs was instructed "to inquire into the expediency of organizing all the territories of the United States lying west of the state of Missouri and the territories of Arkansas and Michigan into a separate territory, to be occupied exclusively by the Indians."[2]

In his message of January 25, 1825, Monroe recommended the establishment of an adequate government over the tribes to be removed, and in the following December the house committee on Indian affairs was instructed to inquire into the expediency of establishing in the Indian country "a territorial government over them of the same kind and regulated by the same rules, as the territories of the United States are now governed."

In 1826 the secretary of war recommended the organization of a territorial government over the Indian country west, and the committee on Indian affairs reported a bill to that effect. The secretary commented as follows on one clause of the bill: "The third object of the bill is the establishment of a territorial government by the United States for their protection and their civilization. The bill proposes a governor, three judges, and a secretary, to be appointed by the president." The secretary of war in December, 1829, said: "I beg leave to suggest for your consideration if an Indian territory, without the range of western states or territories, might not be advantageously created."

The work of the three commissioners appointed under the act of 1832 to visit the Indian country has already been described. On February 10, 1834, they addressed their report from Fort Gibson, and recommended, as of primary importance, in view of their observations and experience among the tribes, the organization of an Indian territory. As a basis of organization the commissioners suggested the appointment of a governor, secretary, marshal, prosecuting attorney, and a judiciary, and an annual council of the Indians, the number of the delegation from each tribe to be designated by the president. The northern boundary of the proposed territory was to be the south bank of the Missouri and Platte rivers. In this way a confederacy of the tribes was outlined. The assent of the Choctaw, Creek and Cherokee tribes was to be essential to the perfecting of such confederacy. The council was to make regulations for inter-tribal intercourse; to preserve peace; to settle boundary disputes; and arrest offenders of law.

The bill for the organization of an Indian territory, reported by the committee on Indian affairs in May, 1834, and which failed to become a law, was accompanied by a report on the advantages of such an organization. This report declared it to be now the fixed policy of the government to induce the Indians to remove "to a territory set apart and dedicated to their use and government forever . . . to fit them for the enjoyment of the blessings of free government. And a further hope is now encouraged, that whenever their advancement in civilization should warrant the measure, and they desire it, that they may be admitted as a state, to become a member of the Union." A bill "to provide for the security and protection of the emigrant and other Indians west of the state of Missouri and of the territory of Arkansas," describing the boundaries of an "Indian territory," was introduced and likewise failed of passage in February, 1836.

The substance of the bills which for several years had been before Congress, for the organization of a government for In-

[2] Rep. of commissioner of Indian affairs, Dec., 1830

dian Territory, was considered by the councils of various tribes during the summer of 1837. The Delawares, Shawnees, Pottawatomies, Kickapoos and a number of the smaller tribes expressed themselves as well pleased with the proposed plan of government, and requested that the president and Congress should carry it into effect as soon as practicable. In the summer of 1838 Isaac McCoy and Captain Armstrong (acting superintendent of Indian affairs) were instructed to present to the southern tribes the principles of the territorial bill which at the previous session had passed the senate. The matter was submitted to the Choctaw council at their regular meeting. They objected to the organization of the territory, without assigning any definite reasons, though intimating that they lacked confidence in the government of the United States.[3] Though the commissioners did not formally present the matter to the Cherokees and Creeks, they discovered that a general belief prevailed that the design of organizing the territory was in reality a design to rob them of their country. This impression, it was thought, was promoted by mischievous white men who had selfish interests in the matter. "Almost all white men who mingle with the Indians, in the Indian country," was McCoy's version, "are opposed to the plan of organizing an Indian territory, and of rendering the Indians secure in their possessions. First, there are white men married to Indian women, who identify themselves with the Indians as much as possible, and are permitted to remain in the Indian country. Those who have preferred savage to civilized society do not desire the improvement of the former. Secondly, traders can make more profitable speculations on poor, ignorant, suffering Indians, oppressed beneath their wants and woes, than upon a people in more comfortable circumstances; and hence they prefer the present condition of Indians to one improved. And, thirdly, the agents employed by the government easily perceive that by the improvement of the condition of the Indians they will become capable of managing their own matters, and that the necessity for agents will vanish. None, in either of the three classes, would venture upon open opposition to government, which would afford a tangible ground of complaint, and might occasion their removal from the Indian country. Nevertheless, there are a thousand ways in which these men can keep an influence continually bearing upon the Indians, dampening, in its tendency, to all improvement."

A beginning of Indian confederation which might eventually have solidified the Indian country under a territorial government was made in the autumn of 1837, when the Cherokees called a general council to which neighboring tribes were invited, and some attended. This council was for the purpose of confirming existing friendship among them. A year later a more general invitation to a similar gathering was extended to tribes further off. A suspicion among some of the tribes that the movement concealed some purpose hostile to their individual welfare, and also perhaps an unwillingness to accept the leadership of the Cherokees in this matter prevented any definite results from this convention of the tribes. United action among the Indians was as difficult to obtain as it was impossible at the time to secure concerted action of the houses of Congress on a bill for territorial organization.

The plans for the formation of a government over the Indian Territory in 1836-37 went so far as the selection of a site

[3] McCoy, "Baptist Indian Missions," p. 548.

for the seat of such government. Rev. Isaac McCoy, the tireless missionary, was instructed in 1837 to report on a proper reservation not over ten miles square. "For the above purpose," he reports, "I would respectfully recommend a tract commencing where the southern boundary of the lands of the Peorias and the Kaskaskias crosses the Osage river. . . . This tract is nearly four-square, and . . . in point of soil, timber, water and stone, it is surpassed in value by no place of equal dimensions in this country. Its eastern boundary is sixteen miles and 54 chains west of the state of Missouri." This site was very near the present town of Osawotomie, Kansas.

During the winter of 1838-39 the house again failed to act upon the Indian territorial bill as passed by the senate. Though the question had been one of the most important in the discussion of Indian affairs for many years, and though it was considered by many friends of the Indians as one of the first steps that should have been taken in providing for their welfare, it was believed that the time and labor bestowed on the subject had not all been wasted. Summarizing the results of the Indian policy to that time, McCoy says: "About ninety-five thousand Indians, belonging to twenty-three tribes, have been collocated within the proposed Indian Territory. Plats of the boundaries proposed for it have so long been kept before the public that the contemplation of the lines has become pretty uniform among men, when reflecting upon the matters of the territory. Some have their land secured to them by patent, and measures are in progress which will soon secure the lands to all by the same indisputable title. Just views of the causes of Indian decline and misery, and of the means which ought to be employed for reclaiming them, and our obligation to employ those means, have been promoted. Most of the immigrants who have had time to recover from the damage sustained in their removal, are improving their condition. A knowledge of the just ground laid for producing a better condition is increasing and inspiring hope, and promoting industry and enterprise. Even the indigenous tribes are imbibing a spirit of improvement. Some tribes have already laid a solid basis of civil and religious institutions; others are following them at greater or less distance. The whole is assuming the appearance, and customs, and enjoyments of a civil community; and as order is restored, and the social relations of life promoted, they are brought within the reach of religious instruction, from regular attendance on which the unsettled state of their affairs had prevented them."

The subject of a territorial government for the Indian Territory continued to receive the attention of Congress at various intervals throughout the forties. In June, 1846, the committee on Indian affairs reported a bill defining the Indian territory. The encroachments of white settlers, threatening to dispossess the Indians of their country or limit their occupation, had by this time brought the subject into considerable prominence, and, acting on a memorial from the American Mission Association, the committee said: "It is sufficiently evident . . . [as a result of the rapid growth and progress of population] that we have approximated the point when this government must decide whether existing guarantees of treaties with those tribes shall be maintained in the spirit which dictated them. . . . A feeling of distrust and alarm is getting abroad on this subject among those who have long proved themselves the sincere and disinterested friends

of the Indian, and for the policy adopted for the amelioration of his social condition."

After reviewing the improved condition of the Indians since their removal, and the intentions often expressed to constitute them a distinct political entity, the house committee on Indian affairs, June 27, 1848, in reporting a bill for the organization of an Indian Territory, outlined its general provisions and adduced the following considerations in support of its passage: "Nothing, your committee believe, would so hasten the progress of civilization, and promote the improvement and happiness of these tribes, as . . . the integrity of their territory, independence of government, and political equality. . . . Your committee do not suppose that there can ever be any disposition on the part of the government to violate its plighted faith with these comparatively helpless people; but it appears that apprehensions do exist as to the inviolability of their territory, which tend to disturb their tranquillity and retard their improvement."

The bill then reported dedicated forever to the Indian tribes a territory bounded on the east by Missouri and Arkansas, on the north by the Missouri and Platte rivers, on the west by the 105th meridian, and on the south by the Mexican possessions. It secured to each tribe the unqualified right of self-government, except as that right should interfere with the supremacy of the nation. Trial and punishment of criminals was reserved to the tribes, though the pardoning of capital offenses was reserved to the president of the United States. Of chief interest is the clause providing for a confederation of the respective tribes. A general council, with representatives from the various tribes, should regulate the affairs of the confederacy and intertribal relations. There should be a governor, and a territorial delegate should sit in the national house of representatives. The confederation was to be voluntary, and any tribe might withdraw when it saw fit.

"The confederation of the several tribes," declared the committee, "and the annual assembling of delegates of their own selection in a common council, would be a powerful stimulant to improvement. . . . By giving them a representative in Congress they would feel that they were no longer considered inferior, strangers. . . . A vigilant guardian would be placed over the administration of their affairs. . . . The present expensive system of agencies, sub-agencies, and superintendencies might be withdrawn as they became capable of managing their own affairs."

The Mexican war and the consequent extension of the American domain westward to the Pacific coast completely changed the situation of the Indian country. Instead of being on the extreme limits of our possessions, lying as an outside frontier across which there was small incentive to induce the homeseeker to emigrate, as a result of the Mexican cession the Indian country suddenly became a forbidden land interposed between the prosperous east and the new El Dorado, with its unbounded possibilities on the west. Coincident with the acquisition of the Californias came the discovery of gold, which more than any other single cause in American history stimulated westward expansion. Up to this time the commerce with Mexico over the Santa Fe trail, and the trade with the Indian tribes, had afforded the principal incentives for white men to enter and cross the Indian country. But with the rush to California and the Oregon emigration of about the same time, the domain of

the Indians was traversed in all directions by the hosts of emigrants bound for the west.

Next in time, if not in importance, came the agitation for new states west of Missouri, resulting from the compromise of 1850 and the repeal of the Missouri compromise, and the contest between the free and slave states in occupying this territory and forming states that would become political instruments in deciding the great issues then pending before the nation.

Two new factors were thus introduced in the Indian situation. The movement of vast bodies of population to the west and the free-state contest were the causes lying behind the events that are to be considered in this portion of the history, and that resulted in a consolidation of tribes and a delimitation of the Indian country until, within a few years after the close of the Civil war, the "Indian Territory" had become a definite geographical area, designed for the home of all the Indian inhabitants of the United States.

The opening of a portion of the Indian country and centralization of some of the minor tribes had been suggested by the commissioner of Indian affairs during the forties. In his annual report of November, 1850, the commissioner affirms his advocacy of a policy which, by a partial change in the relative position of the tribes, would "throw open a wide extent of country for the spread of our population westward, so as to save them from being swept away by the mighty and advancing current of civilization which has already engulfed a large portion of this hapless race." The commissioner refers to the outlet to the west by the southern route through Texas, but calls attention to the necessity of an overland route at a higher latitude, and suggests for that purpose the vacating of lands between the Sioux territory and the Kansas river, where were some tribes to whom their treaties did not guarantee lands in perpetuity.

In this is seen the beginning of the movement, caused partly by the natural pressure of population to the west and partly by the desire for new areas from which could be carved free or slave states, which in a few years led to the Kansas-Nebraska bill and the formation of two territories out of the former Indian country.

Senator S. C. Pomeroy of Kansas on November, 15, 1862, presented a memorial to the interior department, in which he represented "that there is a strong and increasing anxiety on the part of the white settlers, which is also shared to a considerable extent by the enlightened and civilized Indians of our frontier states, for the *removal* and *consolidation* of the small tribes into one general distinctive Indian country, where all the tribes may be concentrated in one settlement . . ." He followed this with eight reasons in support of such a policy. In referring to this memorial, Indian Commissioner Dole upheld its chief points and noted that he had advocated a like plan in his previous annual report.

The policy of the government in dealing with the Indians for their lands after the war was recommended, substantially as later carried out, by the commissioner of Indian affairs in his report of November, 1864. He says: "The territory south of Kansas and west of Arkansas, heretofore known as the 'Indian country' . . . embraces seventy-five thousand square miles. The total number of the tribes inhabiting this country prior to the rebellion, according to the best data now available, was in the neighborhood of seventy thousand, or less than one to each square mile. . . . It is perfectly evident that the area of the country is

vastly in excess of the necessities of the Indians by whom, in virtue of various treaties, it was owned at the commencement of the war. Under the operations of the war the relations of these people to the general government have been very materially changed. Very many of them have united their fortunes with the rebels, while many more, and it is believed a majority, have remained steadfast in their loyalty and in the observance of their treaty stipulations. In the readjustment of our relations with these people, which must necessarily occur at the close of the war, the former class should meet with the condemnation their conduct so justly deserves, and the latter should be treated with the most generous consideration; but it can be no wrong to either class that they should be required to receive within the limits of their country other tribes with whom they are on friendly terms. . . . The tribes now located in Kansas and Nebraska and it may be some others, are on friendly terms with those of the 'Indian country,' excepting so far only as their friendship may have been interrupted by the war. . . . The 'Indian country' is not encroached upon to any appreciable extent by white settlements, and is well adapted by climate, soil and location to support a large population of these people. . . . I feel that I cannot too strongly urge the importance of preserving the 'Indian country' for the use of Indians alone, and in all treaties or other arrangements which may hereafter be made with its former owners, insisting upon, and if need be enforcing, such terms as will secure ample homes within that country for all such tribes as from time to time it may be found practicable and expedient to remove thereto." The reasons here expressed for obtaining the consent of the Indian tribes to a cession of portions of their lands were clearly to obtain land upon which other Indians might be settled, and if there was any intention at that time to open such ceded lands to public settlement it was one of those ulterior purposes that are accomplished under the mask of more convenient and more generous means.

That the treaties finally concluded in 1866 were the result of pre-arrangement and of plans that had been considered for some years previously, is indicated by an unratified agreement made with the loyal Creeks who were in the refugee camp at the Sac and Fox agency in Kansas in 1863. The officials of the Indian department had concluded a treaty with this portion of the tribe by which they ceded, for the use of other Indians to be moved on to the lands, all their country north of the Arkansas river, for a distance of forty miles from the east boundary of the Creek Nation. The price fixed for this cession was $200,000. This land, it should be noted, belonged to the rebel half-breeds of the Creek Nation. This agreement is not mentioned in any of the subsequent records, and was merely an incident of the rebellion, noteworthy only because it shows the policy of the government with regard to the concentration of the tribes within the territory originally granted to the five civilized nations.

The destructive effects of the Civil war upon the Indian tribes were turned into instruments of persuasion by the government in securing the cessions needed for the location of tribes from other states in Indian Territory. It would have required, probably, greater financial inducements and long continued negotiations, to gain the consent of the Cherokees and other civilized tribes to a partition of their patented lands, had they been an undivided and prosperous people such as they were before the war. The commissioner of Indian affairs in 1864

reported that he had been unsuccessful in his negotiations with the Cherokees for the cession of a part of their lands upon which to locate the Delawares from Kansas. But, he continues, "recent information, of an unofficial character, has led me to believe that further negotiations would be attended with better success. The fortunes of war have greatly impoverished this tribe, and as a means of in some degree relieving them from their pressing wants, and enabling them to resume their former vocations, I respectfully suggest the propriety of purchasing from them the tract of country they now own within the state of Kansas, known as neutral lands. This tract of land is represented as being very desirable for the purpose of settlement, and it is understood that the loyal Cherokees are willing to dispose of it on very favorable terms."

A quotation from the contemporary press will indicate some phases of the Indian policy at the close of the war, especially with reference to territorial organization. The Nation, in its issue under date of February 1, 1866, said: "Among the propositions which for some years past have been growing upon the attention of public men, is one providing for the organization of the country south of Kansas into a territory with a proper form of civil government. . . . In the provisional treaties made at Fort Smith, the idea of an original Indian Territory was kept in view. Conditions were made for the purchase of land for the settlement of civilized tribes from Kansas or elsewhere as fast as arrangements could be made. The western portion of the territory can and will be used for the hunter tribes. . . . All the hunter Indians south of the North Platte and east of the mountains could be readily concentrated into the western half of the territory, especially if the parallelogram of Texas, known as 'Young's Territory,' running between that state and New Mexico to within half a degree of the Kansas state line, could be added thereto." This last mentioned scheme is interesting, since it is not generally known that the addition of a large block of Texas territory to the Indian country was ever seriously entertained.[4]

"A bill has been introduced into Congress," continues the article from the Nation, "providing for the organization of a territorial government. Should it become a law, as is likely, we shall see a worthy attempt made to enable the Indian to perpetuate his existence . . . as a part of our common country, and entering at the proper time the family of states. In connection with it, provision should be made for as early an abolition of tribal distinctions as can be brought into practical effect. Further, while indiscriminate trading should not be allowed, measures ought to be adopted looking to the abandonment of the present system of licenses."

Under an act of Congress July 20, 1867, "to establish peace with certain hostile Indian tribes," an Indian peace commission was appointed, and visited, in the performance of their duties, the wild tribes of western Indian Territory. In the statement of the objects of this commission are some interesting facts revealing the pur-

[4] The commissioner of Indian affairs, July 12, 1867, in response to an inquiry from the senate relative to Indian hostilities on the frontier, recommended "that a large territory be set apart south of the south line of Kansas, and west of Arkansas, including the present Indian Territory and the country known as the Staked Plains of Texas, and so much of New Mexico as may be necessary, for the exclusive occupation and ultimate home of all the Indians south of the Platte and east of Arizona."

poses of the government at that time concerning the Indian problem.[5]

One of the objects of the commission was "to secure, as far as practicable, our frontier settlements, and the safe building of our railroads looking to the Pacific;" and another was, "to suggest or inaugurate some plan for the civilization of the Indians." In the passage of the act was indicated, so the commission believed, the intention of Congress to collect at some early day all the Indians east of the Rocky mountains on one or more reservations.

The commission met the Kiowas, Cheyennes, Arapahoes, Comanches and Apaches at Medicine Lodge, near Fort Larned, and as a result formulated the treaties by which those tribes were given definite locations in Indian Territory. "Since October, 1865," the commission asserted, "the Kiowas, Comanches and Apaches have substantially complied with their treaty stipulations entered into at that time."

The commission, in its report, reviewed the Indian hostilities east of the Rocky mountains during recent years, told of the friction between the white and Indian races, the injustice too frequently committed by Americans in dealing with the Indian occupants, and recommended some measures for the uplift and improvement of the tribes. After exhibiting the harshness and barrenness of results that accompanied the policy of Indian removal, the commission concluded that but one resource remained to be tried, with honor to the nation, "and that is to select a district, or districts of country, . . . on which all the tribes east of the Rocky mountains may be gathered. For each district let a territorial government be established, with powers adapted to the ends designed. The governor should be a man of unquestioned integrity and purity of character . . . agriculture and manufactures should be introduced among them as rapidly as possible; schools should be established which the children should be required to attend; their barbarous dialects should be blotted out and the English language substituted," etc.

The commission recommended the selection of two territories (the second being north of Nebraska). In the first territory (Indian Territory) the commission calculated on concentrating within a few years the following tribes: Cherokees, Creeks, Choctaws, Chickasaws, Seminoles (the five civilized tribes already there), Osages, Wichitas (and affiliated bands), Kiowas and Comanches, Cheyennes, Arapahoes and Apaches, Pottawotomies, Kansas Indians (various tribes), and Navajoes of New Mexico.[6] Eventually, as it turned out, practically all these Indians were located in Indian Territory.

[5] Report of Indian Peace Commission, Jan. 7, 1868. Exec. Doc., 2d Sess., 40th Cong.

[6] The government later endeavored to obtain a part of the Cherokee lands for the Navajoes, but the Cherokees rejected the proposition on the ground that the Navajoes were not civilized Indians within the meaning of the treaty.

CHAPTER X

THE TREATIES OF 1866.

the hand of fellowship to all nations of Indians.

"*Resolved further,* that the said executives be requested and authorized to communicate the wishes and intentions of this grand council to the proper authorities of the Cherokee, Seminole, Creek, Osage and other nations of the Indians now in alliance with the government of the United States, and at hostilities with these nations, and to invite the said Cherokee, Seminole, Creek, Osage and all other nations of Indians to become parties to this confederation and to co-operate with this council in its efforts to contract anew friendly relations with the United States government."

Continuing, the resolutions directed that commissioners be selected from the various tribes to go to Washington and "negotiate such treaties as the exigencies of affairs may seem to demand," such treaty not being binding until ratified by the national councils of the respective tribes.[1]

It was at first contemplated to allow these delegates to come to Washington, but subsequent correspondence resulted in the designation of a board of commissioners to proceed to the Indian country and meet them at Fort Smith. The commission comprised the following persons: D. N. Cooley, commissioner of Indian affairs; Elijah Sells, superintendent southern superintendency; Thomas Wistar, a leading member of

[1] From "War of the Rebellion," Ser. I, Vol. XLVIII, Pt. II. p. 110.

Preliminary to the important treaties that were signed with the principal tribes of the Indian Territory in 1866, mention should be made of the resolutions adopted by the grand council of Indian tribes, held at Camp Napoleon, May 24, 1865. The resolutions passed at that time were discussed and their objects again stated in the grand council which was held at Cleata Yamaha, in the Choctaw Nation, June 15, 1865. These resolutions are important as foreshadowing the subject matter of the treaties later made by the government with the five civilized tribes. "Whereas at the grand council held at Camp Napoleon on the 24th day of May, 1865, the Cherokees, Choctaws, Creeks, Chickasaws, Seminoles, Comanches, Caddoes, Osages, Cheyennes, Kiowas, Arapahoes, Lipans, the Northern Caddoes, and Anadarkoes, did enter into a solemn league of peace and friendship; and

"Whereas the object of this confederation of these Indian nations is to maintain the integrity of the Indian Territory as the present and future home of our race, to preserve and perpetuate the national rights and franchises of the several nations, to cultivate peace, harmony and fellowship. . . .

"*Resolved by the grand council of the united nations of the Indian Territory,* that the principal chiefs and governors of the nations here represented constitute a committee who are requested and authorized to extend, in the name of this confederation,

the Society of Friends; Brigadier General W. S. Harney, and Col. Ely S. Parker, of General Grant's staff.

The council assembled at Fort Smith, September 8, 1865, and delegates were present in the course of the sittings representing the Creeks, Choctaws, Chickasaws, Cherokees, Seminoles, Osages, Senecas, Shawnees, Quapaws, Wyandottes, Wichitas and Comanches. Immediately upon the opening of the proceedings, the tribes were informed generally of the object for which the commission had come to them; that they, for the most part, as tribes, had, by violating their treaties, forfeited all rights under them, and must be considered as at the mercy of the government; but that there was every disposition to treat them leniently, and above all a determination to recognize in a signal manner the loyalty of those who had fought upon the side of the government and endured great sufferings on its behalf. On the next day the delegates were informed that the commissioners were empowered to enter into treaties with the several tribes upon the basis of the following propositions:

1st. That each tribe must enter into a treaty for permanent peace and amity among themselves, each other as tribes, and with the United States.

2d. The tribes settled in the "Indian country" to bind themselves, at the call of the United States authorities, to assist in compelling the wild tribes of the plains to keep the peace.

3d. Slavery to be abolished, and measures to be taken to incorporate the slaves into the tribes, with their rights guaranteed.

4th. A general stipulation as to the final abolition of slavery.

5th. A part of the Indian country to be set apart, to be purchased for the use of such Indians, from Kansas or elsewhere, as the government may desire to colonize therein.

6th. That the policy of the government to unite all the Indian tribes of this region into one consolidated government should be accepted.

7th. That no white persons, except government employes, or officers or employes of internal improvement companies authorized by the government, will be permitted to reside in the country, unless incorporated with the several nations.

The business of the council was to treat with the Indians on the subject of these propositions, but a large part of the proceedings during the thirteen days of conference were taken up by the explanations by the different delegations of the manner in which the nations became involved with the Confederate government. Also, there was some confusion, on the part of the Indians, as to the purposes of their meeting in general council, and on these grounds, or as a pretext for delay, several delegations claimed that they were not properly authorized to enter into any binding treaties with the United States covering the points proposed by the commission. It became evident that no final treaties could be concluded with the tribes represented for the reason that, until the differences between the loyal and disloyal portions were healed, there could be no satisfactory representation of most of them. It was therefore determined to prepare for signature by the commission, and by the delegates, representing all factions and opinions, a preliminary treaty, pledging anew, on behalf of the Indians, allegiance to the United States, and repudiating all treaties with other parties; and on the part of the United States agreeing to re-establish peace and friendship with them. This was considered essential as preliminary to the main business of the commission. This plan was carried out, the preliminary treaty having been presented in the council on September 10,

and on the breaking up of the conference all of the delegates representing the following tribes and sections of tribes, in the order given, had signed (some of them holding out several days until they could agree among themselves): Senecas, Senecas and Shawnees, Quapaws, loyal Seminoles, loyal Chickasaws, loyal Creeks, Kansas, Shawnees (uncalled for, but asking to be permitted again to testify their allegiance), loyal Osages, tribes of the Wichita agency, loyal Cherokees, disloyal Seminoles, disloyal Creeks, disloyal Cherokees, disloyal Osages, Comanches, disloyal Choctaws, and Chickasaws.[2]

The commission succeeded in restoring friendly relations between the members of the various tribes hitherto at variance, except in the case of the Cherokees. The ancient feuds among this people were well-nigh irreconcilable. The Ridge faction was ably represented in the council by E. C. Boudinot and others. Having learned from the actions of those representing the loyal party that if they came back it must be as beggars and outlaws, they asked the protection and good offices of the commission. Efforts were then made on the part of the commission to effect a reconciliation, but all that could be brought about was a promise upon the part of those representing the loyal party to present the question to their council.

Besides effecting the preliminary treaty

[2] *Articles of agreement entered into, this thirteenth day of September, 1865, between the commissioners designated by the president of the United States and the persons here present representing or connected with the following named nations and tribes of Indians located within the Indian country, viz.: Cherokees, Creeks, Choctaws, Chickasaws, Osages, Seminoles, Senecas, Senecas and Shawnees and Quapaws.*

Whereas, the aforesaid nations and tribes, or bands of Indians, or portions thereof, were induced by the machinations of the emissaries of the so-called Confederate States to throw off their allegiance to the government of the United States, and to enter into treaty stipulations with said so-called Confederate States, whereby they have made themselves liable to a forfeiture of all rights of every kind, character, and description which had been promised and guaranteed to them by the United States; and whereas, the government of the United States has maintained its supremacy and authority within its limits; and whereas, it is the desire of the government to act with magnanimity with all parties deserving its clemency, and to re-establish order and legitimate authority among the Indian tribes; and whereas, the undersigned representatives or parties connected with said nations or tribes of Indians have become satisfied that it is for the general good of the people to reunite with and be restored to the relations which formerly existed between them and the United States, and as indicative of our personal feelings in the premises, and of our several nations and tribes, so far as we are authorized and empowered to speak for them; and whereas, questions have arisen as to the status of the nations, tribes, and bands that have made treaties with the enemies of the United States, which are now being discussed, and our relations settled by treaty with the United States commissioners now at Fort Smith for that purpose:

The undersigned do hereby acknowledge themselves to be under the protection of the United States of America, and covenant and agree, that hereafter they will in all things recognize the government of the United States as exercising exclusive jurisdiction over them and will not enter into any allegiance or conventional arrangement with any state, nation, power or sovereign whatsoever; that any treaty of alliance for cession of land, or any act heretofore done by them, or any of their people, by which they renounce their allegiance to the United States, is hereby revoked, cancelled and repudiated.

In consideration of the foregoing stipulations, made by the members of the respective nations and tribes of Indians present, the United States, through its commissioners, promises that it will re-establish peace and friendship with all the nations and tribes of Indians within the limits of the so-called Indian country; that it will afford ample protection for the security of the persons and property of the respective nations or tribes, and declares its willingness to enter into treaties to arrange and settle all questions relating to and growing out of former treaties with said nations, as affected by any treaty made by said nations with the so-called Confederate States, at this council now convened for that purpose, or at such times in the future as may be appointed.

above mentioned, the commission made valuable progress towards the consummation of treaties with some of the important tribes, treaties that in the following year were signed by properly accredited delegates in the city of Washington. Such treaties were drawn up with the Osages, the Creeks, and the Choctaws and Chickasaws, to be signed later in Washington. The proceedings at Washington in the following year were not, therefore, in the nature of a general council, but rather a meeting of delegates to give official sanction to the work which had been outlined and in several instances drafted during the conference at Fort Smith.

The close of the Civil war brought momentous changes to Indian Territory. The treaties made between the United States commissioners and the civilized tribes in 1866 contained the elements of dissolution for the Indian nations, and with the signing of those documents the influence of the whites rapidly became ascendant over the declining Indians. It requires only a reading of the principal provisions of these treaties to understand that a new era had dawned for the Indian nations.

First, and as a natural result of the war, came the provisions for the freeing of the slaves, which was hardly less a "peculiar institution" of the Indians than of the southern whites. In the treaty with the Cherokees (July 19, 1866), after reference had been made to the alliance with the Confederate states, which was repudiated by the Indians February 18, 1863, it was provided with regard to former slaves and free negroes who had resided in the Cherokee nation prior to June 1, 1861, that those who chose might settle in a district to themselves, which district was to be an integral part of the Cherokee nation, but with local officials and regulations.[3]

In the treaty with the Choctaw and Chickasaw it will be noticed that the provisions for the freedmen do not designate a separate district for their home, but allow them to settle anywhere among their former owners and receive all the privileges of citizenship.[4] The Cherokee Nation alone

[3] Art. 4. . . . Who may within two years elect not to reside northeast of the Arkansas river, and southeast of Grand river, shall have the right to settle in and occupy the Canadian district southwest of the Arkansas river, and also all that tract of country lying northwest of Grand river, and bounded on the southeast by Grand river and west by the Creek reservation to the northeast corner thereof; from thence west on the north line of the Creek reservation to the ninety-sixth degree of west longitude; and thence north on said line of longitude so far that a line due east to Grand river will include a quantity of land equal to one hundred and sixty acres for each person who may so elect to reside in the territory above described in this article.

[4] "Said sum to be held in trust until the legislatures of the Choctaw and Chickasaw Nations respectively shall have made such laws, rules, and regulations as may be necessary to give all persons of African descent, resident in the said nation at the date of the treaty of Fort Smith, and their descendants heretofore held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage of citizens of said nations, except in the annuities, moneys, and public domain claimed by, or belonging to, said nations respectively; and also to give to such persons who were residents as aforesaid, and their descendants, forty acres each of the land of said nations on the same terms as the Choctaws and Chickasaws, to be selected on the survey of said land, after the Choctaws and Chickasaws and Kansas Indians have made their selections as herein provided; and immediately on the enactment of such laws, rules, and regulations, the said sum of three hundred thousand dollars shall be paid to the said Choctaw and Chickasaw Nations in the proportion of three-fourths to the former and one-fourth to the latter—unless such sum, at the rate of one hundred dollars per capita, as shall be sufficient to pay such persons of African descent before referred to as within ninety days after the passage of such laws, rules, and regulations shall elect to remove and actually remove from the said nations respectively."

set aside a district for the home of the negro freedmen. Furthermore, the Cherokees passed laws forbidding the intermarriage of Indians and blacks. The Seminoles, as mentioned on a previous page, while they did not hold slaves, practiced marriage with the negroes. After the war the Creek Nation received the freedmen on equal terms of citizenship, and marriage between the Creeks and former slaves became quite common. The result is seen at the present time when the native citizenship of the old Creek Nation shows a much greater number, and greater variety of degrees, in mixed negro and Indian blood, than in the Cherokee Nation, for instance, where the races have intermarried less freely.

But of more importance than the abolition of slavery within the limits of the nations were the provisions inserted in the various treaties allowing the settlement of friendly tribes on the lands that had been guaranteed as the lasting home of the tribe. The Choctaw and Chickasaw (treaty of April 28, 1866) ceded to the United States for the sum of $300,000 the "leased district," including all the country lying west of the 98th degree of longitude, and furthermore consented that not more than 10,000 "civilized Indians from the tribes known by being Indians to the north of Indian Territory," should be received into the Choctaw and Chickasaw country east of the 98th meridian, as fellow citizens.

The treaty with the Cherokee (July 19, 1866) gave consent to similar settlement[5] east of the 96th meridian, and permitted settlement west of that meridian under certain conditions.

The history of the original Oklahoma might be said to begin in the treaty which was concluded with the Creek Nation on the 14th of June, 1866. The preamble recites that the treaty with the Confederate States, July 10, 1861, by ignoring their allegiance to the United States, had "unsettled the treaty relations," and rendered them "liable to forfeit to the United States" all the benefits of lands, etc. Thus menaced, the Creeks submitted to military occupation, to abolition of slavery, acceptance of freedom on equal terms of citizenship and tribal rights, and "in view of said liabilities [because of Confederate alliance] the United States *require of the Creeks a portion of their lands whereon to settle other Indians.*" Then, as described in article 3 of the treaty,[6]

[5] Art. 15. The United States may settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country, on unoccupied lands east of 96°, on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the president of the United States, which shall be consistent with the following provisions, viz: Should any such tribe or band of Indians settling in said country abandon their tribal organization, there being first paid into the Cherokee national fund a sum of money which shall sustain the same proportion to the then existing national fund that the number of Indians sustain to the whole number of Cherokees then residing in the Cherokee country, they shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect with native citizens. And should any such tribe, thus settling in said country, decide to preserve their tribal organizations, and to maintain their tribal laws, customs, and usages, not inconsistent with the constitution and laws of the Cherokee Nation, they shall have a district of country set off for their use by metes and bounds equal to one hundred and sixty acres, if they should so decide, for each man, woman and child of said tribe, and shall pay for the same into the national fund such price as may be agreed on by them and the Cherokee Nation, subject to the approval of the president of the United States, and in cases of disagreement the price to be fixed by the president.

[6] *Treaty with the Creeks, June 14, 1866.*—Art. 3. In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold to and used as homes for such other civilized Indians as the

the Creeks ceded to the United States the entire western half of their possessions divided by a north and south line. The nominal purpose for which this cession was to be used was for the location of other Indians and freedmen thereon, but as history proves, the region became the bone of contention between the cattlemen and the boomers, and was eventually opened to settlement as the original Oklahoma.

One of the most interesting of the various provisions of the treaties of 1866 were those pertaining to the inter-tribal council of the civilized tribes. These provisions were in the nature of an enabling act, sanctioning the formation of an Indian confederate government, by which the various tribes would be knit together under a general governing council, to which should be delegated certain powers and functions similar to those possessed by the governing bodies of the territories of the Union. Clearly, the design was that this inter-tribal council should accustom, in time, the Indians to a centralized form of government, and eventually fit the Indian Territory for admission among the states.

An inter-tribal council was by no means a new feature of the Indian policy, as the previous chapter has shown. But taken just at this time, when the government was bent on concentrating the Indians within the boundaries of the Indian Territory, it is a further proof of the intention to constitute the Indians a body politic which, while maintaining its own peculiar customs and institutions, would eventually be prepared for the duties and privileges of a separate state.

The full details of this plan are stated in the treaty with the Choctaws and Chickasaws, as given below.[7] In the council at

United States may choose to settle thereon, the west half of the entire domain, to be divided by a line running north and south; the western half of said Creek lands, being retained by them, shall, except as herein otherwise stipulated, be forever set apart as a home for said Creek Nation; and in consideration of said cession of the west half of their lands, estimated to contain three million two hundred and fifty thousand five hundred and sixty acres, the United States agree to pay the sum of thirty (30) cents per acre, amounting to nine hundred and seventy-five thousand one hundred and sixty-eight dollars, in the manner hereinafter provided, to wit: two hundred thousand dollars shall be paid per capita in money, unless otherwise directed by the president of the United States, upon the ratification of this treaty, to enable the Creeks to occupy, restore and improve their farms, and to make their nation independent and self-sustaining, and to pay the damages sustained by the mission schools on the North Fork and the Arkansas rivers, not to exceed two thousand dollars, and to pay the delegates such per diem as the agent and Creek council may agree upon, as a just and fair compensation, all of which shall be distributed for that purpose by the agent, with the advice of the Creek council, under the direction of the Secretary of the Interior. One hundred thousand dollars shall be paid in money and divided to soldiers that enlisted in the Federal army and the loyal refugee Indians and freedman who were driven from their homes by the rebel forces, to reimburse them in proportion to their respective losses; four hundred thousand dollars be paid in money and divided per capita to said Creek Nation, unless otherwise directed by the president of the United States, under the direction of the Secretary of the Interior, as the same may accrue from the sale of land to other Indians. The United States agree to pay to said Indians in such manner and for such purposes as the Secretary of the Interior may direct, interest at the rate of five per cent per annum from the date of the ratification of this treaty, on the amount hereinbefore agreed upon for said ceded lands, after deducting the said two hundred thousand dollars; the residue, two hundred and seventy-five thousand one hundred and sixty-eight dollars, shall remain in the treasury of the United States, and the interest thereon, at the rate of five per centum per annum, be annually paid to said Creeks as above stipulated.

[7] Art. 7. The Choctaws and Chickasaws agree to such legislation as Congress and the President of the United States may deem necessary for the better administration of justice and the protection of the rights of person and property within the Indian Territory: Provided, however, such legislation shall not in anywise interfere with or annul their present tribal organization, or their re-

Fort Smith in the fall of 1865, as already noticed, the confederation of the tribes under a sort of territorial government had been one of the principal objects of the commission's labors. In the report of the president of the commission, he refers to the progress made in this direction, as follows: "It became sufficiently evident, in the course of the council, that one great object in view by the government, the colonization of such tribes or portions of tribes from the north as should desire a permanent home in the Indian country, would be secured when the policy of the government in regard to them was fully understood; and it was gratifying to notice that the subject of the organization of an Indian territory, with provisions securing a certain degree of individuality to the various tribes—indeed, based upon the admirable form of government of the United States, and with a representative delegate in Congress—although at first distasteful to the leading spirits among the Indians, gradually increased in favor by the study of the few copies at hand of the bill proposed by yourself in the senate last winter, until, near the close of the council, Mr. Boudinot, a man of education and ability, speaking on behalf of the Cherokees and others who had taken part in the rebellion, declared in a speech . . . that the plan was eminently satisfactory, and would entitle its protectors to the everlasting gratitude of the Indians."

Similar provisions for the inter-tribal

spective legislation or judiciaries, or the rights, laws, privileges, or customs, of the Choctaws and Chickasaw Nations respectively.

Art. 8. The Choctaws and Chickasaws also agree that a council consisting of delegates elected by each nation or tribe lawfully resident within the Indian Territory, may be annually convened in said Territory, to be organized as follows:

1. After the ratification of this treaty, and as soon as may be deemed practicable by the Secretary of the Interior, and prior to the first session of said assembly, a census of each tribe, lawfully resident in said territory, shall be taken, under the direction of the superintendent of Indian affairs, by competent persons to be appointed by him, whose compensation shall be fixed by the Secretary of the Interior and paid by the United States.

2. The council shall consist of one member from each tribe or nation whose population shall exceed five hundred, and an additional member for each one thousand Indians, native or adopted, or each fraction of a thousand greater than five hundred being members of any tribe lawfully resident in said Territory, and shall be selected by the tribes or nations, respectively, who may assent to the establishment of said general assembly; and if none should be thus formally selected by any nation or tribe, it shall be represented in said general assembly by the chief or chiefs and head-men of said tribes, to be taken in the order of their rank as recognized in tribal usage in the number and proportions above indicated.

3. After the said census shall have been taken and completed, the superintendent of Indian affairs shall publish and declare to each tribe the number of members of said council to which they shall be entitled under the provisions of this article; and the persons so to represent the said tribes shall meet at such time and place as he shall designate, but thereafter the time and place of the sessions of the general assembly shall be determined by itself: Provided, That no session in any one year shall exceed the term of thirty days, and provided, that the special sessions may be called whenever, in the judgment of the Secretary of the Interior, the interests of said tribes shall require it.

4. The general assembly shall have power to legislate upon all subjects and matters pertaining to the intercourse and relations of the Indian tribes and nations resident in the said Territory, the arrest and extradition of criminals escaping from one tribe to another, the administration of justice between members of the several tribes of the said Territory, and persons other than Indians and members of said tribes or nations, the construction of works of internal improvement, and the common defense and safety of the nations of the said Territory. All laws enacted by said council shall take effect at the times therein provided, unless suspended by the Secretary of the Interior or the President of the United States. No law shall be enacted inconsistent with the Constitution of the United States or the laws of Congress, or existing treaty stipulations with the United States; nor shall said council legislate upon mat-

council as those above quoted in the Choctaw-Chickasaw treaty were incorporated in the other treaties made in 1866. Later Congress appropriated a certain sum to be used in defraying the expenses of this council while in session, and every encouragement was given to the carrying out of the plan. However, the history of the inter-tribal council may be told in a few words.

Nominally the plan for the council was carried out for several years. The call was issued, and each autumn representatives of the various tribes assembled in the old council house at Okmulgee.[8] In 1870 a congressional committee appointed to visit the grand council reported:[9] "Delegates were in attendance from . . . Cherokees, Muskokees or Creeks, Choctaws, Chickasaws, Seminoles, Ottawas, Eastern Shawnees, Quapaws, Senecas, Wyandottes, Confederate Peorias, Sacs and Foxes, Great and Little Osages, and Absentee Shawnees. We found that the committee on the permanent organization of the territory into an Indian government . . . had made unanimous report in favor of the measure. . . . The report was adopted by a vote of 48 to 5. . . . After the adoption of the report . . . a committee of 12 was appointed to draft a constitution."

The constitution drafted in this year has always been known as the "Okmulgee constitution." It provided a plan of federal government for the tribes inhabiting Indian Territory. Unfortunately, the copies of this instrument, if in existence, are rare, and it

ters pertaining to the legislative, judicial, or other organizations, laws, or customs of the several tribes or nations, except as herein provided for.

5. Said council shall be presided over by the superintendent of Indian affairs, or, in case of his absence from any cause, the duties of the superintendent enumerated in this article shall be performed by such person as the Secretary of the Interior shall indicate.

6. The Secretary of the Interior shall appoint a secretary of said council, whose duty it shall be to keep an accurate record of all the proceedings of said council, and to transmit a true copy thereof, duly certified by the superintendent of Indian affairs, to the Secretary of the Interior immediately after the sessions of said council shall terminate. He shall be paid five hundred dollars, as an annual salary, by the United States.

7. The members of the said council shall be paid by the United States four dollars per diem, while in actual attendance thereon, and four dollars mileage for every twenty miles going and returning therefrom by the most direct route, to be certified by the secretary of said council and the presiding officer.

8. The Choctaws and Chickasaws also agree that a court, or courts, may be established in said Territory with such jurisdiction and organization as Congress may prescribe: Provided, That the same shall not interfere with the local judiciary of either of said nations.

9. Whenever Congress shall authorize the appointment of a delegate from said Territory, it shall be the province of said council to elect one from among the nations represented in said council.

10. And it is further agreed that the superintendent of Indian affairs shall be the executive of the said Territory, with the title of "governor of the Territory of Oklahoma," and that there shall be a secretary of the said Territory, to be appointed by the said superintendent; that the duty of the said governor, in addition to those already imposed on the superintendent of Indian affairs, shall be such as properly belong to an executive officer charged with the execution of the laws, which the said council is authorized to enact under the provisions of this treaty; and for this purpose he shall have authority to appoint a marshal of said Territory and an interpreter; the said marshal to appoint such deputies, to be paid by fees, as may be required to aid him in the execution of his proper functions, and be the marshal of the principal court of said Territory that may be established under the provisions of this treaty.

[8] A writer in Lippincott's Magazine, in 1879, describes his visit to Okmulgee during a session of the grand council. "Before us was the town, of some fifty log cabins, straggling here and there in the brush, with two or three large stores of Indian traders and a tumble-down council-house of logs in the center of a cleared square. Okmulgee also has a hotel, which is a large farm house, with a passage-way through the center and a wide piazza."

[9] Dec. 23, 1870, House Misc. Doc. No. 49, 3d Sess., 41st Cong.

has been impossible to secure one for publication in this history. The value of the document, however, is that of a historical curiosity, since it never became the basic law of a permanent federal system. Intertribal jealousies and antipathies were stronger than the cohesive forces necessary for the operation of such a government, and though the friendly relations of the tribes with one another were doubtless promoted by this annual council, it was not productive of the results which its promoters had cherished.

In connection with this plan for an intertribal council we come upon the first specific mention of the word "Oklahoma," and so far as investigation reveals, the word is first officially used in article 8, paragraph 10, of this treaty with the Choctaws and Chickasaws, where it says: "And it is further agreed that the superintendent of Indian affairs shall be the executive of the said territory, with the title of 'governor of the Territory of Oklahoma.'"

Evidently, the name "Oklahoma" had been suggested in the course of the discussion preliminary to the treaty, and probably was not a new or unfamiliar word among the Choctaws, since it seems to be of Choctaw origin. All the signers of the original treaty are now dead, and, so far as known, no direct testimony can be summoned to prove who first proposed this name as used in the treaty, nor what significance, if any, was attached to the word.[10]

The name thus having been brought into current use, and as it were given official sanction, when in the following years the movement for the organization of a territorial government over the Indian country was transferred to the seat of government at Washington, the name was suggested to those in charge of this legislation. In this connection, an interesting letter written to Sidney Clarke by ex-Congressman R. T. Van Horn, who had charge of the first bill for the organization of a territorial government in which the name "Oklahoma" was used, gives some valuable information both about the bill and the origin of the name in connection therewith:

"The bill," writes Colonel Van Horn, "was introduced and referred to the committee on Indian affairs, of which you [Sidney Clarke] were chairman and I a member. And you very generously referred it to me, and I had charge of it, reported it to the house, and after it had its day before the committee of the whole, Shelby M. Cullom raised the question that it ought to go to his committee on Territories. A sort of compromise was effected, and the bill went into the files, as I suppose.

"I will here give you from the only living authority besides yourself—that is myself—the inside history of that bill. Its active promoters and inspirers were Perry Fuller and Alex. McDonald. It was at their solicitation that I offered to introduce the bill, and we often met to work over it at Perry Fuller's room, a few doors from the Congressional Hotel. Col. Boudinot

[10] Interesting in this connection, and showing that "Oklahoma" readily came to be used about this time as referring to the Indian Territory, is a paragraph from the Paris (Texas) Press, dated August 11, 1866, and quoted in the Dallas Herald of August 18th. The paragraph is headed "Oklahoma," and continues as follows: "The Choctaws and Chickasaws have made a treaty with the United States government, a perusal of which would interest our readers . . . The main features are, first and foremost, the settlement of the status of the negro, making him the equal of all other citizens of the territory . . . provisions made for the organization of a state out of said territory, and said state to be called 'Oklahoma.' Our readers will notice that the name of the territory, 'Oklahoma,' is the Choctaw name of Red river, and signifies, when literally translated, 'red water.' [!]"

often met with us, and varied the sessions by music and song, sometimes aided by Dr. Long. . . .

"After the bill was completed, I remember the incidents perfectly, the question came up of a name for the proposed territory. Finally it was agreed, as Perry Fuller put it, to refer that matter to 'Boudie,' as we familiarly called Boudinot. And he said he would think the matter over and report to-morrow night when we were to meet again.

"He made his report and suggested the name of Oklahoma—and it was put in the bill then and there—and in that bill the word Oklahoma first appears in the official records of Congress, if not in the official records of the government.

"Now, my recollection is distinct as to this matter, that Col. Boudinot said: 'It is a Creek word, and signifies Redman's land, or country, or home, or any such English equivalent. Some men who claim to be linguists and teachers say it is a Choctaw word. Be the matter as it may be among those people, this is how the word came into legal use, and this is what Boudinot, the author of its introduction, said at the time that it meant. If there was a mistake as to its derivation there is none as to its origin in that bill."

CHAPTER XI

REALIGNMENT OF INDIAN BOUNDARIES, AND REMOVAL OF INDIANS FROM OTHER STATES TO THE INDIAN TERRITORY

It seems proper at this point, though anticipating the events of later years, to describe the partition of the old Indian Territory among the various tribes of Indians who were found dwelling there when the movement for white settlement began. As stated, the movement for the delimitation and division of the regions originally assigned to the civilized tribes began with the Choctaw-Chickasaw treaty of 1855, when the country of these nations lying west of the 98th meridian was "leased" to the government, for the settlement of the Wichita and other tribes thereon.

After the war, each treaty with the nations provided for a cession of lands on which might be located other tribes. First considering the old Choctaw-Chickasaw country, lying south of the Canadian river. The Kiowa and Comanches were first provided with a definite area in this region. The first treaty with these tribes, dated October 18, 1865, is a puzzling bit of geographical description, and perhaps this was a reason why it was not ratified.[1] The permanent treaty is dated October 21, 1867, and defined the Kiowa and Comanche reservation as it was shown on the maps of fifteen or twenty years ago. Its boundaries were, in general, the 98th meridian on the east, the Red river on the south, the North Fork of the Red river on the west, and on the north a line on the latitude of the Washita river.[2] Another treaty of the same date

[1] *Comanche and Kiowa Treaty, Oct. 18, 1865.*— . . . Commencing at the northeast corner of New Mexico, thence south to the southeast corner of the same; thence northeasterly to a point on main Red river opposite the mouth of the north Fork of said Red river; thence down said river to the ninety-eighth degree of west longitude; thence due north on said meridian to the Cimarone river; thence up said river to a point where the same crosses the southern boundary of the state of Kansas; thence along said southern boundary of Kansas to the southwest corner of said state; thence west to the place of beginning, shall be and is hereby set apart for the absolute and undisturbed use and occupation of the tribes who are parties to this treaty.

[2] *Treaty with the Kiowa and Comanche, 1867.*— Art. 2. The United States agrees that (the) following district of country, to wit: commencing at a point where the Washita river crosses the 98th meridian, west from Greenwich; thence up the Washita river, in the middle of the main channel thereof, to a point thirty miles, by river, west of Fort Cobb, as now established; thence, due west to the north fork of Red river, provided said line strikes said river east of the one hundredth meridian of west longitude; if not, then only to said meridian line, and thence south, on said meridian-line, to the said north fork of Red river; thence down said north fork, in the middle of the main channel thereof, from the point where it may be first intersected by the lines above described, to the main Red river; thence down said river, in the middle of the main channel thereof to its intersection with the ninety-eighth meridian of longitude west from Greenwich; thence north, on said meridian-line, to the place of beginning, shall be and the same is hereby set apart for the absolute and undisturbed use and occupation of the tribes herein named, and for such other friendly tribes or individual Indians as, from time to time, they may be willing (with the consent of the United States) to admit among them; and the United States now solemnly agrees that no persons except those herein authorized so to do and except such officers, agents, and employes of the Government as may be authorized to enter upon Indian reserva-

confirmed the confederation of the Apache Nation with the Kiowa-Comanche, and their acceptance into the reservation on equal footing and with the same benefits.

After the admission of Texas to the Union, the state and federal governments jointly undertook to concentrate the Comanches (the southern band of that tribe) and the various Caddo tribes on two reservations in north Texas. The Comanches were gathered at Camp Cooper in what is now Shackelford county. The attempt to keep these Indians within the bonds of civilization failed, owing perhaps as much to aggressive whites as to the actions of the Indians themselves. The Comanches were on the war path in 1858, and an expedition under Major Earl Van Dorn and Sul Ross pursued them into the Indian country, and on October 1, 1858, overtook and defeated them in a sharp conflict at the Washita river. The Indians were returned to their reservations, but depredations on the advancing white settlements continued, the Indians being blamed whether they were the authors of the mischief or not. The result was that the experiment of domiciling the Texas tribes within the state failed, and in August, 1859, Major George H. Thomas of the U. S. army transferred the tribes to the Indian Territory.

The Indians were so incensed at their removal that they began at once a series of depredations on the frontier of Texas. The Rangers and U. S. troops together had more than they could do to protect life and property along the extensive frontier line. In December, 1860, Capt. Sul Ross, with his Rangers and some U. S. dragoons, surprised the Comanche camp on Pease river, and captured or killed many of the Indians. It was in this engagement that the famous Cynthia Ann Parker was captured from the Indians, after she had lived in the tribe for twenty-five years, had adopted their ways, become the wife of an Indian, and so completely merged her identity with the Indian race that it was with difficulty and after many trials that she recalled her native tongue and her name. After being returned to her own people, it is said that she was not contented, and more than once attempted to escape and return to the Indians. But death ended her checkered career before this hope was realized. Her son is Quanah Parker, perhaps the most famous Indian of the southwest, except Geronimo.

The Wichitas, with their affiliated bands of Keechies, Wacoes, Towoccaroes, Caddoes, Ionies, and Delawares (numbering about 1,250 in 1872) were fragments of once important tribes originally belonging in Louisiana, Texas, Kansas and Indian Territory. Except the Wichitas and Delawares, they were removed by the government from Texas to the "leased district" in the Choctaw-Chickasaw country in 1859, and for many years lived along the Washita river near old Fort Cobb. They had no treaty relations with the government, nor is there anything in the records to show a well defined reservation except the unratified agreement of October 19, 1872. The commissioner of Indian Affairs, in his re-

tion in discharge of duties enjoined by the law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, or in such territory as may be added to this reservation, for the use of said Indians.

. . . . . .

Art 11. In consideration of the advantages and benefits conferred by this treaty and the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside of their reservation, as herein defined, but they yet reserve the right to hunt on any lands south of the Arkansas (river) so long as the buffalo may range thereon in such numbers as to justify the chase.

port for 1872, said, "They have always, or at least for many years, been friendly to the whites, although in close and constant contact with the Kiowas and Comanches. A few of them, chiefly Caddoes and Delawares, are engaged in agriculture, and are disposed to be industrious. Of the other Indians at this agency, some cultivate small patches in corn and vegetables, the work being done mainly by women; but the most are content to live upon the government. The Caddoes rank among the best Indians of the continent. . . . But one school is in operation, with an attendance of eighteen pupils. These Indians have no annuities; but an annual appropriation of $50,000 has for several years been made for their benefit."

The Kiowas, Comanches and Apaches, said Gen. Francis A. Walker in his report as commissioner of Indian Affairs for 1872, formerly ranged over an extensive country lying between the Rio Grande and Red river. "Wild and intractable, these Indians, even the best of them," declared General Walker, "have given small signs of improvement in the arts of life; and substantially, the whole dealing of the government with them thus far has been in the way of supplying their necessities for food and clothing, with a view to keeping them upon their reservation and preventing their raiding into Texas, with the citizens of which state they were for many years before their present establishment on terms of mutual hatred and injury. Some individuals and bands have remained quiet and peaceable upon their reservation, evincing a disposition to learn the arts of life, to engage in agriculture, and to have their children instructed in letters. To these every inducement is being held out to take up land and actively commence tilling it. Thus far they have under cultivation but 100 acres, which have produced the past year a good crop of corn and potatoes. The wealth of these tribes consists in horses and mules, of which they own to the number, as reported by their agent, of 16,500, a great proportion of the animals notoriously having been stolen in Texas. . . . So long as four-fifths of these tribes take turns at raiding into Texas, openly and boastfully bringing back scalps and spoils to their reservation, efforts to inspire very high ideas of social and industrial life among the community of which the raiders form so large a part will presumably result in failure."

The lands set apart for the Cheyennes and Arapahoes were originally a very important part of present western Oklahoma, comprising parts of the lands ceded by the Creeks in 1866 and later included within the original Oklahoma. The first treaty providing lands for the location of these Indians is dated October 28, 1867, and owing to dissatisfaction on the part of the Indians the boundaries of the reservation were not permanent.[8] The commissioners suggested a readjustment of boundaries, and with the approval of the department,

[8] *Treaty with the Cheyenne and Arapaho, 1867.*— Art. 2. The United States agrees that the following districts of country, to wit: Commencing at the point where the Arkansas river crosses the thirty-seventh parallel of north latitude, thence west on said parallel — the said line being the southern boundary of the state of Kansas—to the Cimarone river (sometimes called the Red Fork of the Arkansas river), thence down said Cimarone river, in the middle of the main channel thereof, to the Arkansas river; thence up the Arkansas river, in the middle of the main channel thereof, to the place of beginning, shall be and the same is hereby set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians, as from time to time they may be willing with the consent of the United States, to admit among them.

the location of the Cheyenne and Arapaho reserve was defined as a region whose southern limit was the Kiowa-Comanche country (above described), extending west to Texas, with the Cherokee Outlet on the north, and on the east the 98th meridian and a portion of the Cimarron river.[4]

Concerning the general condition of these tribes, Commissioner Walker said in 1872: "A considerable number of the Arapahoes are already engaged in agriculture, though at a disadvantage; and when the question of their reservation shall have been settled, it is confidently believed that the whole body of this tribe will turn their attention to the cultivation of the soil. Two schools are conducted for their benefit at the agency, having an attendance of thirty-five scholars. Of the Cheyennes confederated with the Arapahoes, the reports are less favorable as to progress made in industry, or disposition to improve their condition. Until 1867 both these tribes, in common with the Kiowas and Comanches, were engaged in hostilities against the white settlers in western Kansas, but since the treaty made with them in that year they have, with the exception of one small band of the Cheyennes, remained friendly and have committed no depredations."

By the treaty of March 21, 1866, the Seminoles were restricted to a reservation containing two hundred thousand acres, a rectangular tract situated just west of the Creek Nation, between the North Fork and the main Canadian rivers. This reservation has left a permanent mark on the geography of the state, in Seminole county, which includes the area reserved by the above treaty.[5]

The Sac and Fox tribes, by treaty dated February 18, 1867, ceded their former reservations in Kansas, and in return were assigned lands in the Indian country south of Kansas and south of the Cherokee lands, in area not exceeding 750 square miles.

[4] Commencing at the point where the Washita river crosses the ninety-eighth degree of west longitude; thence north on a line with said ninety-eighth degree to the point where it is crossed by the Red Fork of the Arkansas (sometimes called the Cimarron river); thence up said river, in the middle of the main channel thereof, to the north boundary of the country ceded to the United States by the treaty of June 14, 1866, with the Creek Nation of Indians; thence west on said north boundary and the north boundary of the country ceded to the United States by the treaty of March 21, 1866, with the Seminole Indians, to the one hundredth degree of west longitude; thence south on the line of said one hundredth degree to the north boundary of the country set apart for the Kiowas and Comanches by the second article of the treaty concluded October 21, 1867, with said tribes; thence east along said boundary to the point where it strikes the Washita river; thence down said Washita river, in the middle of the main channel thereof, to the place of beginning.

The territory comprised within the boundaries last above designated contains a small portion of the country ceded to the United States by the terms of the treaty with the Creek Indians concluded June 14, 1866; a portion of the country ceded to the United States by the terms of the treaty with the Seminole Indians concluded March 21, 1866, and the remainder is composed of a portion of what is commonly known as the "leased country."

[5] *Seminole Treaty, March 21, 1866.*—Art. 3. In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Seminole cede and convey to the United States their entire domain [According to treaty of Aug. 7, 1856] . . . The United States having obtained by grant of the Creek nation a westerly half of their lands, hereby grant the Seminole nation the portion thereof hereafter described, which shall constitute the national domains of the Seminole Indians . . . Beginning on the Canadian river where the line dividing the Creek lands according to the terms of their sale to the United States by their treaty of Feb. 6th, 1866 [this treaty was never ratified], following said line due north to where said line crosses the North Fork of the Canadian river; thence up said North Fork of the Canadian river a distance sufficient to make two hundred thousand acres by running due south to the Canadian river; thence down said Canadian river to the place of beginning.

For the home of these Indians lands were selected between the Cimarron and the North Fork of the Canadian, lying just west of the Creek Nation, including the eastern half of what is now Lincoln county and small portions of the adjoining counties. This reservation was located on part of the country ceded by the Creeks in 1866.[6]

By the fifteenth article of the treaty of 1866 provision was made that, upon certain conditions, the United States should have the right to settle civilized Indians upon any unoccupied Cherokee territory east of 96° west longitude.[7] The material conditions limiting this right were that terms of settlement should be agreed upon between the Cherokees and the Indians so desiring to settle, subject to the approval of the president of the United States; also, that, in case the immigrants desired to abandon their tribal relations and become citizens of the Cherokee Nation, they should first pay into the Cherokee national fund a sum of money which should sustain the same proportion to that fund that the number of immigrant Indians should sustain to the whole Cherokee population. If, on the other hand, the immigrants should decide to preserve their tribal relations, laws, customs, and usages not inconsistent with the constitution and laws of the Cherokee Nation, a tract of land was to be set apart for them by metes and bounds which should contain, if they so desired, a quantity equal to 160 acres for each soul. For this land they were to pay into the Cherokee national fund a sum to be agreed upon between themselves and the Cherokees, subject to the approval of the president, and also a sum bearing a ratio to the Cherokee national fund not greater than their numbers bore to the Cherokees. It was also stipulated that, if the Cherokees should refuse their assent to the location of any civilized tribe (in a tribal capacity) east of 96°, the president of the United States might, after a full hearing of the case, overrule their objections and permit the settlement to be made.

The Delawares were the first tribe to avail themselves of the benefits of the foregoing treaty provisions. Terms of agreement were entered into between them and the Cherokees, which were ratified by the president on the 11th of April, 1867. Under the conditions of this instrument the Delawares selected a tract of land equal to 160 acres for each member of their tribe who should remove in the Cherokee country. For this tract they agreed to and did pay one dollar per acre. They also paid their required proportional sum into the Cherokee national fund. The number of Delawares who elected to remove under this agreement was 985. The sums they

[6] *Sac and Fox Reservation.*—Beginning at a point on the left bank of the North Fork of the Canadian river, where the west boundary line of the Creek reservation crosses the same; thence north with said west boundary line to the right bank of the Cimarron river; thence up the said Cimarron river along the right bank thereof to a point on said right bank of said river, where the section line between sections nineteen (19) and twenty (20) of Township eighteen (18) north, of Range (4) east of the Indian Meridian strikes the same; thence south . . . to the southeast corner of section eighteen (18) in said Township Thirteen (13); thence west . . . to the range line between Ranges Three (3) and Four (4) east . . . thence south . . . to . . . the left bank of the North Fork of the Canadian river . . . ; thence down the said North Fork of the Canadian river, along the left bank thereof to the place of beginning:

Also the tract of land situated in Township Ten (10) North of Range Four (4) East of said Indian Meridian, north of the North Fork of the Candian river (not within the limits of the tract of country above described).

[7] Fifth Annual Report B. A. E. C. C. Royce, "Cherokee Nation of Indians."

were required to pay were: for land, $157,600; and as their proportion of the national fund, $121,834.65, the latter amount having been calculated on the basis of an existing Cherokee national fund of 1,678,000 and a population of 13,566 (Indian Office records).

For a time after their removal the Delawares were much dissatisfied with what they characterized as the unequal operation of the Cherokee laws, and because much of the tract of land to which they were assigned was of an inferior character. At one time some two hundred of them left the Cherokee country, but after an absence of two years returned, since which a feeling of better contentment prevailed. Following the Delawares, the Munsee or Christian Indians, a small fragmentary band who under the treaty of July 16, 1859, had become confederated with the Chippewas of Saginaw, Swan Creek, and Black River, residing in Kansas, perfected arrangements for their removal and assimilation with the Cherokees. An agreement was entered into (December 6, 1867) at Tahlequah, Cherokee Nation, having this end in view, and which was duly filed with the commissioner of Indian Affairs (July 31, 1868). The condition of this agreement was that, after the complete dissolution of their relations with the Chippewas, the Munsees should pay into the Cherokee national fund all moneys that should be found due them in pursuance of such separation.

The next Indians to avail themselves of the privileges of Cherokee citizenship were the Shawnees. By the treaty of 1825 (Treaty of November 7, 1825, in United States Statutes at Large Vol. VII) a reserve had been granted them covering an area in the richest portion of what is now the state of Kansas 50 by 120 miles in extent. By a subsequent treaty in 1854, they ceded in deference to the demands of encroaching civilization, all of this immense tract except 200,000 acres. Among those who so elected, the greater portion of this diminished reserve was divided into individual allotments of 200 acres each. Patents were issued to the head of each family for the quantity thus allotted to the members of his or her family, with the power of alienation, subject to such restrictions as the secretary of the interior might prescribe. In course of time alienation was made by these allottees of the greater portion of their land; the money thus received was squandered with the thriftless prodigality that characterizes barbarous semi-civilized tribes the world over, and their improverished condition was rendered still more uncomfortable by the seeming determination of the rapidly increasing white settlers to take possession of their few remaining lands.

In this unfortunate condition of affairs they turned their eyes for relief toward the country of the Cherokees. Negotiations were entered into which resulted in the conclusion of an agreement, under date of June 7, 1869, and which received the approval of President Grant two days later. By the terms of this compact, the Shawnees then residing in Kansas, as well as their absentee brethren in the Indian Territory and elsewhere, who should enroll themselves and permanently remove within two years to the Cherokee country, upon unoccupied lands east of 96°, should be incorporated into, and ever after remain a part of the Cherokee Nation, with the same standing in every respect as native Cherokees. In consideration of these benefits the Shawnees agreed to transfer to the Cherokee national fund a permanent annuity of $5,000 held by them under previous treaties, in addition to the sum of $50,-

000 to be derived from the sale of the absentee Shawnee lands provided for by the resolution of Congress approved April 7, 1869. Under the provisions of this agreement, seven hundred and seventy Shawnees removed to and settled in the Cherokee country, as shown by the census roll filed (August 14, 1871) with the commissioner of Indian affairs.

The Osages, about whom so many of the early events of the Indian country revolved, after their removal from the dangerous proximity with the Creeks and Cherokees, were Kansas Indians until after the war. The treaty with the Cherokees in 1866 opened the way for the location of several Kansas tribes on the ceded territory west of the 96th meridian. The act of Congress, July 15, 1870, directed that the lands of the Great and Little Osages in Kansas should be sold and that the tribe should move to a part of the former Cherokee possessions, a part of the proceeds from the sale of the Kansas lands being devoted to the purchase of suitable lands. The provisions of the act were carried out, and the Osages took possession of their new lands. After they had lived there a year or so and had, it was claimed, built homes and made many valuable improvements on their lands, an accurate survey showed that the most valuable portion of the Osage lands lay on the east side of the 96th meridian. In consequence an act of Congress, June 5, 1872, directed that a tract of country west of the 96th meridian, bounded "on the east by the 96th meridian, on the south and west by the north line of the Creek country and the main channel of the Arkansas, and on the north by the south line of Kansas," should be assigned as the permanent home of the Osages, with the proviso that the Kansas Indians should have a home in this tract.

The Iowas were assigned lands under executive order, dated August 15, 1883. Their lands lay west of the Sac and Fox reservation, bounded north by the Cimarron, south by the Deep Fork of the Canadian, and west by the Indian meridian.[8]

On the same date another executive order defined the Kickapoo reserve, which lay directly south of the Iowa reserve, between the Deep Fork and the North Fork of the Canadian.[9]

Under provisions of the act of Congress approved March 3, 1881, the Otoe and Missouria tribes were assigned a reserve aggregating about 130,000 acres, lying southwest of the Arkansas river and east of the Indian meridian.[10]

The Nez Perces, who occupied a block of

[8] It is hereby ordered that the following described tract of country in the Indian Territory, viz.: Commencing at the point where the Deep Fork of the Canadian river intersects the west boundary of the Sac and Fox Reservation; thence north along said west boundary to the south bank of the Cimarron river; thence up said Cimarron river to the Indian meridian; thence south along said Indian meridian to the Deep Fork of the Canadian river; thence down said Deep Fork to the place of beginning, be, and the same hereby is, set apart for the permanent use and occupation of the Iowa and such other Indians as the secretary of the interior may see fit to locate thereon.

[9] It is hereby ordered that the following described tract of country in the Indian Territory, viz.: Commencing at the southwest corner of the Sac and Fox Reservation; thence north along the western boundary of said reservation to the Deep Fork of the Canadian river; thence up said Deep Fork to the point where it intersects the Indian meridian; thence south along said Indian meridian to the North Fork of the Canadian river; thence down said river to the place of beginning, be, and the same hereby is, set apart for the permanent use and occupation of the Kickapoo Indians.

[10] The lands of the Otoe and Missouria were thus described: T 22 N, R 1 E; T 23 N, R 1 E; T 22 N, R 2 E; T 23 N, R 2 E; T 22 N, R 3 E; and all of T 23 N, R 3 E, lying west of the Arkansas river.

land on both sides of the Arkansas (consisting of four townships) just west of the Indian meridian, were northern Indians and under the act of March 3, 1885, were removed to reservations in Washington Territory and Idaho. Their homes and fields were then assigned to a remnant of the once numerous Tonkawa tribe of Texas, who had been removed from that state to the Iowa reserve in October, 1884.

Fort Reno Military Reserve was set apart in accordance with a request approved July 17, 1883, containing about ten thousand acres.[11]

[11] Beginning at the northwest corner of section 28, township 13 north, range 8 west of the Indian meridian, and running thence east to North Fork of the Canadian river; thence down this stream to the range line between ranges 7 and 8 west of the Indian meridian; thence south on said range line to the southeast corner of section 36, township 13 north, range 8 west of the Indian meridian; thence east to the northeast corner of township 12 north, range 8 west of the Indian meridian; thence south to the southeast corner of section 12 of said township; thence west to the southwest corner of section 9 of said township; thence north to the northwest corner of section 4 of said township; thence west to the southwest corner of section 33, township 13 north, range 8 west of the Indian meridian; thence north to the point of beginning, containing an area of about 14 5-6 square miles, or 9,493 acres.

PART III

THE FORCES OF DISINTEGRATION

CHAPTER XII

REVIEW OF WESTWARD EXPANSION

During the first four decades of the nineteenth century the "Indian country" meant a large and broadly defined area west of the tier of states bordering the Mississippi river. The ten years before the Civil war and the events of that war resulted, as we have seen, in a gradual concentration of Indian population, until by 1870 the only large territory, with definite boundaries, belonging to the Indians, was the "Indian Territory," as it was thereafter generally known until the state of Oklahoma was created.[1]

Having brought the account of this historical evolution to a point where "Indian Territory" is apparently segregated from the forces of American enterprise and civilization, it is now proper to review the events and influences that tend to break down the barriers around this Indian asylum, and that eventually overwhelmed and metamorphosed the Indian under a more vigorous and productive race of American intruders.

Jefferson and his contemporaries saw the solution of the Indian problem of their day in erecting an Indian reservation or state far beyond the western limits of civilization. Ideally they planned the raising of barriers around this Indian country beyond which the whites might never go, and doubtless were sincere in their expectation that the tribes might thus be isolated and protected from the sinister influences of civilization until Indians had advanced to a degree of independence and culture where they would readily enter the Union on equal footing with other states.

Settlement overtook the retreating tribes before a single generation had passed in their new homes, and Indian Territory lay like a barren island dividing the currents of migration this side and that, until the time came when it was engulfed by the streams of white population that surged around.

No fault can be attributed to Jefferson that he could not foresee the rapid expansion of the settled country up to and beyond the region designed for the Indians. In 1800 American population had advanced westward only a little beyond the line of the original colonies, except that Kentucky and other portions of the Ohio valley had received large bodies of pioneers following in the wake of Boone. By 1810 the Mississippi was the westernmost limit of population. St. Louis, from a fur-trading post, has become an important center of settlement, population having spread northward above the mouth of the Missouri and southward along the Mississippi to the mouth of the Ohio. On the Arkansas, near the mouth, is a similar body of settlement.

[1] The name "Indian Territory" was applied to the Indian country in official records at an early date. But it was not until after the state lines of Kansas had been drawn that the name acquired the geographical significance as describing a portion of the United States in distinction from other political divisions. Though never a regularly organized territory, the name was accepted and used in official records and in the geographies until "Indian Territory" passed out of existence on November 16, 1907.

By 1820 the first assignment of lands in the Indian country had been made. East of the Mississippi nearly all the land has been occupied by settlement and divided up and admitted as six or seven states. Also Louisiana had been admitted, and north of that Missouri territory organized. Up the course of the Arkansas and the Missouri population had advanced in solid front, until in 1830 it had reached the first barrier of the Indian country, and paused in the river valleys to gather power for next move to the west.

During the decade preceding 1840 many important changes have occurred. From Georgia, Alabama and Mississippi, the Cherokee, Creek, Choctaw and Chickasaw Indians have finally vacated their lands to the whites, and in the states north of the Ohio river many other tribes have been persuaded to abandon their lands and seek new homes in the Indian country. By 1840 population has crossed the Mississippi river into Iowa territory, and occupies a broad belt up and down that stream. In Missouri the settlements have spread northward from the Missouri river nearly to the boundary of the state, and southward until they cover most of the southern portion, and make connection in two places with the settlements of Arkansas. In Arkansas the settlements remain sparse, but have spread widely away from the streams, covering much of the prairie parts of the state. In 1840 as also in 1850 the western boundaries of Arkansas and Missouri mark the western limits of any considerable population. South of Red river, with the admission of Texas to the Union, population had crowded along that river and by 1850 a considerable population lived along the south border of Indian Territory, from the vicinity of Gainesville, Sherman and Dallas, east to the state line.

Between 1850 and 1860, before the outbreak of the Civil war, many important changes were made in the geography of the west. The territory of New Mexico had been created, California and Oregon had been admitted as states, Utah and Washington territories were formed, Minnesota had become a state, and, specially noteworthy, the Indian Territory had been decreased by the formation from that portion lying north of the 37th degree of latitude of the Kansas and Nebraska territories. In 1860 the first extension of settlements is noted beyond the line of the Missouri river (the settlement of the Pacific coast region not being considered in this connection). Even before the war and the building of the first railroad to the far west, the march of settlement up the slope of the great plains had begun. By 1860 population was found west of the 97th meridian in Kansas and Nebraska, and in Texas the western advance was even further.

Some momentous changes occurred in the situation during the decade from 1860 to 1870. The advance of population was very much interrupted during the war, but the progress during the years immediately following was facilitated by the opening of the first transcontinental railroad and by a general era of speculation and development after the close of the war. It is of particular interest to note that at the time the civilized nations of Indian Territory agreed to surrender most of their lands lying west of the 96th meridian, the line of settlement on the north, in Kansas, and on the south, in Texas, had already crossed that meridian, and the process of surrounding Indian Territory with well settled states was rapidly being accomplished.

The forces operating to break down the barriers of isolation set up by the government around the Indian country are referred

to by the commissioner of Indian affairs in his report of 1859.[2] The commissioner says that most of the border tribes in Kansas and Nebraska were removed there from homes east of the Mississippi under assurances that they would have a permanent home. Various causes operated to render their isolation impossible. "Amongst the most mischievous and fatal of which were their possession of too great an extent of country, held in common, and the right to large money annuities; the one giving them ample scope for indulgence in their unsettled and vagrant habits and preventing them from acquiring a knowledge of individuality in property and the advantages of settled homes; the other fostering idleness and want of thrift, and giving them the means of gratifying their depraved tastes and appetites. And though located separate and apart by themselves, they were yet in contact or within easy communication with a border population, and so constantly exposed to the examples of the various vices from which it was intended to shield them.

"Then came the acquisition of our new possessions west of them [by the Mexican war], and the consequent, inevitable and continued sweep of emigration thereto, through every portion of their country. Thus was the barrier of separation swept away, and they became subject to constant contact. . . . Their best interests, if not their very existence, rendered an entire change of policy toward them necessary, viz.: their concentration on small reservations, to be divided among them in severalty, where they could be protected and compelled to adopt habits of industry. . . . "

The conditions brought about by this invasion and breaking up of the old Indian country led to the act of 1853, authorizing negotiations "with the Indian tribes west of the states of Missouri and Iowa, for the purpose of securing the assent of said tribes to the settlement of the citizens of the United States upon the lands claimed by said Indians, and for the purpose of extinguishing the title of said Indian tribes, in whole or in part, to said lands."

The creation of the Kansas and Nebraska territories was the greatest factor in preventing the consummation of the plan of Indian concentration proposed by Monroe and Calhoun. The influences set in motion by the colonization of Kansas might be traced to their final result in the opening of Oklahoma. The aggressive character of the movement, by which Kansas was won to the Union, was later continued in the organized invasion of Payne and his followers and in the persistent agitation for the opening of the Indian lands to settlement. Speaking, in 1873, of some phases of this question, Gen. Francis A. Walker said: "In 1855-56 occurred the great movement, mainly under a political impulse, which carried population beyond the Missouri. In two or three years the tribes and bands which were native to Kansas or Nebraska, as well as those which had been removed from states east of the Mississippi, were suffering the worst effects of white intrusion. Of the free-state party, not a few zealous members seemed disposed to compensate themselves for their benevolent efforts on behalf of the negro by crowding the Indian to the wall; while the slavery propagandists steadily maintained their consistency by persecuting the members of both the inferior races."[3]

[2] Sen. Doc. 1st Sess., 36th Cong., Vol. I, p. 379.

[3] "The great and sudden influx of population into Kansas, embracing a large class of persons having but little regard for the obligations of law, and none whatever for the rights and welfare of the Indians, has rendered the administration of

"In 1867-8," continues the author just quoted, "the great plough of industrial civilization drew its deep furrow across the continent, from the Missouri to the Pacific, as a sign of dissolution to the immediate possessors of the soil. Already [1874] the Pacific Railroad has brought changes which, without it, might have been delayed for half a century. Not only has the line of settlement been made continuous from Omaha to Sacramento, so far as the character of the soil will permit; but from a score of points upon the railroad population has gone north and gone south, following up the courses of the streams, and searching out every trace of gold upon the mountains, till recesses have been penetrated which five years ago were scarcely known to trappers and guides. . . . The lapse of another five years will find every reservation between the Mississippi and the Rocky mountains surrounded and to a degree penetrated by prospectors and pioneers, miners, ranchmen, or traders."

the affairs of this branch of the public service in that Territory peculiarly embarrassing."—From report of the commissioner of Indian affairs, 1859.

CHAPTER XIII

THE CATTLE INDUSTRY AND INDIAN TERRITORY

The range cattle industry in Texas during the years following the Civil war was among the most powerful agencies, if not the chief force, in dissolving the solidarity of the Indian country. This fact has not been generally apprehended, but sufficient arguments, it is believed, are at hand to prove the assertion.

Cattle raising in Texas at the middle of the last century was largely confined to the southern and eastern parts of the state, and, compared with the business of later years, only a small quantity left the state for outside markets. New Orleans was the principal cattle market before the war, though during the latter fifties St. Louis and Memphis also received some large herds of Texas beeves.

The commencement of hostilities broke all commercial relations between the north and south, cattle drives across the country stopped, the blockade of gulf ports ended the foreign export business, and the Texas herds were scattered over the plains and running wild among the mesquite and buffalo-grass pastures, multiplied until millions of mavericks, it was estimated, roamed the deserted ranges. The revival of the cattle business after the war was swifter than that which followed in other industries. Many poor but enterprising cowmen collected and branded the half-wild cattle of the plains, and in a short time Texas was ready to supply an enormous quantity of beef to the northren markets. The fact that war-time prices prevailed in those markets for some time after the war gave a decided impetus to Texas stock-raising. Thousands of cattle were driven across Red river during 1866.

Then in 1867 a new status was given the cattle traffic. Up to that time the Missouri river had furnished the nearest and most convenient shipping points for Texas cattlemen. In that year the Kansas Pacific Railroad reached out through central Kansas, and at the station of Abilene, Joseph G. McCoy built immense cattle pens and planned a shipping point at which the cattle trails from the south and southwest should converge and disgorge the long-traveled herds into cars, thence to be hurried over steel rails to the abattoirs and packing houses of the east. By 1868 Abilene had not only gained a reputation as "the wickedest and most God-forsaken place on the continent," but had won the favor of many cattlemen as a convenient shipping point, so that the trail-herds were pointed in increasing number toward Abilene. Along with more favorable marketing conditions, came an advance of the cattle industry into western Texas, the result of which was further to extend the activities of the white race around the Indian Territory. It is estimated that 300,000 head of cattle were driven from Texas, across the Indian Territory, to Kansas points in 1870, and twice that number went in the following year.

Up to this time not a single line of railroad directly connected the cattle ranges of Texas with the markets of the Mississippi valley and the north, and yet it was much cheaper and more advantageous in every

way to drive the herds along the trails to the north than to send the cattle out through the gulf ports. But with the year 1872 came a change. The Santa Fe reached the Colorado line in that year, traversing southern Kansas and establishing such shipping points as Dodge City. In the same year the M. K. & T. built its line through eastern Indian Territory to Denison, Texas. About the same time the Texas and Pacific was being extended from Texarkana across northern Texas toward El Paso. Thus on the north, east and south, Indian Territory was hemmed in by the greatest instrument of civilization, the railroad, and directly through the country of the five nations one line had cut a channel from which the influences of the enterprising white race were bound to pervade its tributary region.

But the railroad across the Indian country was only the successor and partial substitute for the route that had already been defined and much used by the cattlemen. Following about the course now made a permanent highway by the M. K. & T. Railroad, the cowboys during the sixties drove their herds over what was generally called the "Baxter Springs Trail." Indian Territory was marked by the most famous of the old cattle trails. West of the Baxter Springs route was the "Shawnee trail," passing through the Osage nation to Abilene, which was much used during the ascendancy of Abilene as a shipping center. Further to the west than either of these was the famous "Chisholm" or "Chisum" trail, which took its name from Jesse Chisholm, a half-breed Indian, and one of the earliest stockmen of the Territory. This trail came into prominence after the custom had been established of transferring the southern cattle to the northern ranges, there to be held and fattened for market. Beginning at the Red river, it crossed the western portion of the present Oklahoma into Kansas, and during the seventies so many cattle were driven this way that it presented the appearance of a wide, beaten highway stretching for miles across the country.

From this brief outline of the Texas cattle industry it is easy to understand how Indian Territory was directly affected. South of the Territory were the greatest cattle ranges of the country, with their thousands or cattle to be marketed annually. In the north and east were the markets. Indian Territory lay directly in the path of the herds, whether they were driven to market or to northern ranges. Under these circumstances, it was almost inevitable that the cattle trails wound across the Indian reservations, and that in time railroads were built along the same general routes and made permanent connection between the grazing grounds of Texas and the packing centers of the Missouri river. At the same time, Indian Territory offered as fine range for cattle as Texas, and not only did the herds graze broadly over the several trails across the Territory, but the opportunity of fine pasturage and easy leasehold was seized by many cowmen who used the Indian lands as a breeding ground. How long could the barriers around the Indian nations obstruct the invading whites, when an army of cowboys each season lingered along the trails, resting their herds on the best pastures and often wintering their cattle in the valleys?

During the early '80s the range cattle industry reached the climax of its development.[1] The western ranges were occupied with cattle from southern Texas to Montana. A large number of cattle owners of that period thought they had more or less

[1] "Prose and Poetry of the Cattle Industry."

permanently provided themselves with ranges of the best pasturage to be found in the whole country, by leasing lands from the Indian Territory tribes. This practice was continued until a large part of the Indian Territory was occupied for maturing herds of Texas stock on the blue grass of the country. Wire fences were first introduced about this time, and most of the operators in the Territory fenced their leased lands. Their business was controlled almost exclusively by white men who were not connected by marriage with any Indian tribe and could not be citizens of the Territory.

The story of the triangular conflict between the cattlemen, the Oklahoma boomers, and the Indian citizens reveals, as might be expected, many points of view, and a decision on the merits of the different parties would be difficult to arrive at. In the work, "Prose and Poetry of the Live Stock Industry" (Kansas City, 1904), which presumably states the cattlemen's side of the question, the occupation of Indian lands and the eviction by executive order in 1885 are described as follows (pp. 689-690):

"The division of the Territory and the creation of a new territory for white people from its western part had been in contemplation, and attempts had been made, in anticipation of this, by parties of white men, to settle in districts containing fine agricultural lands; but these attempts had been frustrated by the stockmen. It is to be said to the credit of the latter that they believed the Indian tribes had full power to lease their lands, and therefore that the leases were valid. . . . The government recognized the cattlemen only as trespassers and declared their leases to be void, and in August, 1885, President Cleveland issued an executive order directing them to vacate at once. . . .

"The executive order of 1885 caused a profound sensation throughout cattledom in the west, and produced consternation among the stockmen directly affected by it. Their situation indeed was a hard one. The stock business was in a state of collapse, . . . the country was full of cattle, the range land everywhere seemed to be crowded. . . . Hundreds of thousands of cattle had to be taken out of the Territory immediately. The stockmen had sent a committee to Washington to plead for a few months' delay. . . . The president's reply was that he had no discretion in the matter, that no modification of the order was possible. . . . The cattlemen got out of the Indian Territory in the autumn of that year." The removal at that time, when market was in collapse, entailed the loss of thousands of cattle on the drives and the sacrifice of great values in disposing of the stock.

"It would seem," continuing the quotation, "that proceedings so arbitrary and that worked hardships and losses so great as were imposed upon these trespassing stockmen were unjust, though they were strictly lawful. A few months for preparation for the change could have made no practical difference to the federal government, nor to the people who were looking forward to the opportunities for acquiring homesteads in the new territory. . . . These Indian Territory stockmen were 'set out' with as much indifference to the consequences as any that has characterized the dispossession of Irish peasantry. It is easy enough to say that the stockmen were trespassers, but to one familiar with circumstances and conditions and ways of thinking in the west at that time, this offhand disposition of the matter will not meet with approval."

CHAPTER XIV

THE WHITE INTRUSION

"Silent immigration," said John C. Calhoun over sixty years ago, would save Oregon for the American Union. It had saved Texas to the Union, as Calhoun knew. "Silent immigration" has been the instrument of the "manifest destiny" of a large part of the Union, and it was the silent immigration of the "white intruders" of Indian Territory that promoted the failure of the original plans for the Indian asylum.

The rush of population to the coast after the discovery of gold, the fight for a free-state in Kansas, the cattle traffic, were each in its time a powerful factor in breaking up the Indian reservation system. But all together they could not equal the steady, persistent power exerted by the "intruder" class. For many years intrusion was an insidious influence, working with an effect that was not comprehended, and beyond the power of laws to prevent. No doubt the ideal of those who first planned the colonization of the Indians in a region by themselves was that in this way the race might be preserved in its original purity. Such an ideal was impossible of attainment. Even before the removal of the tribes to the west, the intermarriage of whites and Indians had given some of the most aristocratic families of the old southern states a trace of Indian blood. And this amalgamation of the races has gone on steadily ever since. White traders, Indian agents, individuals coming to the Indian country either as refugees or led thither by a longing for the wild life and its occupations, readily took Indian wives, were often adopted into the tribes and became Indian citizens. This mingling of the races, it must be understood, began, or rather continued, from the time the Indians were established in the Indian country. The earliest travelers, whose accounts are elsewhere referred to, mention the presence of white men in this country. The French trappers and hunters, employes of the great fur companies, traversed all the regions about the Arkansas and Red rivers, and left as memorials of their stay the French names of many streams and localities that are found in Oklahoma geography.

From year to year this intrusion of the members of the alien race continued to bear its fruits. Calhoun invented an apt phrase when he described it as "silent immigration," for only after the lapse of many years can its results be clearly appreciated. In discussing the results of white intrusion in Indian Territory, it is natural to refer to the historic parallel in Texas, where, contrary to and in spite of the most strenuous opposition of the Spanish and Mexican authorities, Americans colonized in Texas in great numbers until finally their strength was sufficient to enable them to assert complete independence of the nation under whose authority they had first submitted, and to wrest an entire province from Mexico and eventually add it to the American Union. In Indian Territory the invasion was similar, but for many years was unorganized, and only when it became sys-

tematic under the leadership of Payne and Couch did the large results follow which make the historic parallel between the opening of Oklahoma and the conquest of Texas.

By the Indian intercourse act of 1834, it was made a criminal offense to enter without authority the limits of any Indian reservation. But the penalties prescribed were not sufficient to repel the organized and persistent invasion of later years. Even before the war, the Indian Territory had a large population of the intruder class, and during the decade of the sixties this invasion went on to such an extent as to excite the alarm of the Indians and those charged by the government with caring for the Indians.

In later years, when it was sought to justify the presence of large bodies of white people on Indian lands, it was argued that the Indians themselves were responsible for such a condition, and that they had invited the white settlers to come among them. To a large degree this was true. The Indians did not fail to be attracted by the propositions made by enterprising whites for the use of their lands, and when the cattlemen, in their search for new range, appealed to the Indian's cupidity by offering to lease for what seemed a substantial money consideration the vacant Indian pastures, there developed very soon a regular system of leasing and permits which brought an increasing number of white men into the Territory with every year.

The result of the leasing of Indian lands to white settlers in breaking down the isolation of the Indian Territory was foreseen in an attempt to secure such a lease in the very beginning of the concentration policy. In the winter of 1836-37, says McCoy, "an attempt, on a small scale, had been made to introduce into the Indian Territory a principle which, in its effects, would have become subversive of all that gives security to the Indians in the possession of their lands. A man, whose opportunities had given him reputation and influence, conceived the idea of improving his circumstances, which, through bad management, had become much embarrassed, by obtaining a location among the Delawares. By his address he had acquired a great influence over them; he professed great regard for them, pointed out ways in which he could promote their interests, and proposed that they should lease to him, for a given length of time, a mile square of land within their country. To a measure of this kind the consent of the government of the United States was necessary. Four Delawares, therefore, two of whom were chiefs, were induced to accompany him to Washington, to present to the department of Indian affairs the request that the government would allow the conveyance to be made, to which they attached some other requests. To a general council of the Delawares these matters had been presented in a manner so plausible that the council had agreed to pay the expenses attendant on the journey out of the next annuity which they would receive from the United States. In the meantime their flattering friend was to advance money on loan to them.

"Soon after the departure of the delegation, the propriety of what they had done was questioned by the tribe. They informed me of the circumstance, and that they had even gone so far as to request the secretary of war to advance to the delegation what funds they should need, and deduct the amount from the annuities due the Delaware nation. They now repented sorely of their error, and wrote a letter, through their agent, to the secretary of war counter to the former.

"It was evident that if the Delawares, or any other Indians, should be allowed the liberty of leasing land to white people, their country would soon be filled with the latter, and they would be crowded out. If liberty should be given to lease for a *few* years, the same principle would admit of a lease of *many* years; and if allowed to lease to one man, they would be allowed to do the same to another. The consequence would be that valuable tracts of land would be wrested from them. First, such as lay nearest the white settlements would be secured to white men, who, by paying the chiefs liberally, or to their satisfaction, even should the consideration be ardent spirits, would purchase their consent to lease these lands. The principle of leasing would, in fact, be tantamount to the privilege of selling." In this instance the design was frustrated, because the department of war refused to transact any business with the delegation.

The intrusion of the white people as the result of which the majority of the population of the Indian Territory was composed of people of white blood a number of years before the Dawes Commission was appointed, came about through a system of permits and the hiring of non-citizens to work and perform the mechanical labor of the Indians. In the laws of the Cherokee Nation for 1875 we find some of the provisions by which white citizens legally came into the Territory and secured a foothold from which they could not again be driven. One of these is the so-called drovers' tax by which non-citizens of the Cherokee Nation who wished to drive stock through the nation might do so by paying certain fees ranging from one cent a head for lambs and kids to five cents a head for cattle and horses and larger animals. Keeping stock in the nation longer than was necessary for the passage subjected the drover to an additional tax. A second provision relating to the transaction of mercantile business in the nation imposed a tax equal to one fourth of one per cent on all bills of purchase by the merchant, and provided a fine for a transaction of such business without license. But the most important of these laws was that which permitted the Indians to hire citizens of the United States. "Any citizen of this nation who shall desire to hire or employ a citizen of the United States as a laborer or mechanic, shall be and is hereby required to obtain therefor a license from the clerk of the district wherein such person may reside. . . . but no permit shall be granted for a longer period than one year." A bond was required for the good behavior of the employee. The Cherokee Laws for 1892 provided a tax of one dollar per head on all cattle brought into the Cherokee Nation east of the ninety-sixth meridian. And by these laws it cost a citizen fifty cents per month to hire a non-citizen, it being stipulated that such non-citizens should be employed for some useful purpose.

The Choctaw and Chickasaw nations had similar laws regulating the bringing in of non-citizens and trade and intercourse within the limits of their nation. The law of the Chickasaw Nation with reference to the hiring of non-citizens was: "That citizens of any state or territory of the United States wishing to hire or rent land or be otherwise employed in this nation shall be required to enter into a contract with a citizen, and after contract was agreed upon the non-citizen shall place in the hands of the citizen a sufficient amount of money to pay permits. . . . " (Chickasaw Laws 1876.) The other provisions of the Chickasaw law concerning merchants and residence of non-citizens are similar to

those already quoted from the Cherokee Laws.[1]

An analysis of the intruder question was made by the commissioner of Indian affairs in his report for 1892, in which he quotes the following from the report of the agent at Union Agency:

"The intruder seems to flourish principally in the Cherokee, Choctaw, and Chickasaw Nations, there being no intruders at this time among the Seminoles and very few among the Creeks. The Seminoles are seldom troubled with intruders. . . .

"In the Cherokee, Choctaw, and Chick-

[1] An interesting account of the origin of the intruder class and their relation with the Chickasaw and Choctaw nations, was published by R. W. McAdams in 1891. It is evidently written from the standpoint of the intruder class, but in substance its statements are correct. The account follows:

"The abolition of slavery was for many years a block to Chickasaw and Choctaw progress. Before the war such agricultural development as was done was the result of slave labor. With freedom the ex-slaves became as indolent as the ex-masters. The plow was idle and Texas cattle companies utilized at nominal cost the rich ranges of the prairie lands. Aside from the intermarried whites, many of whom were industrious, law-abiding citizens, the class of white people who inhabited or rather sojourned in the Indian country were as a rule interlopers, stock thieves and refugees from justice. It is easy to imagine the state of affairs under such conditions. Contact with this type of civilization did not elevate the Indian. It demoralized him. The Indian Territory and crime became synonymous. Many of the prominent citizens who prior to the war had cultivated large farms by slave labor, began to realize the necessity of a class of white farm laborers in the country. To induce farmers to settle in the nation a permit law was passed, fixing the annual permit at twenty-five cents. The non-citizen paid the fee to his landlord and the landlord procured the permit through the county clerk, the recording fee being twenty-five cents. This law had the desired effect. Hundreds of whites began to emigrate from adjacent states and cultivate land for the Indians under a liberal system of tenancy. The Indians now began to realize that a source of wealth to themselves as individuals and a nation was to be derived from this system. Unfitted by hereditary habit and prejudice for the performance of manual labor, they perceived a simple means of gratifying their idle propensity and amassing wealth at the same time. The rich valleys were gradually cleared and put in cultivation. Log cabins and rail fences sprang up where had been a primeval wilderness. As settlements became more plentiful, the condition of the intermarried citizens and mixed-bloods improved accordingly, as they were the classes most benefited, being the most thrifty and enterprising. A great majority of the full-bloods had neither the foresight nor the energy to take advantage of the opportunities offered by the tenant system, and as a natural consequence the shrewder elements mentioned supplanted them in the possession of the common domain. About the year 1876, during the administration of Governor Overton, a radical change in the tribal policy toward non-citizens was adopted. Up to that time many thousands of cattle had been permitted to graze in the country, the foreign cattle companies evading the cattle tax law by allowing their herds to be held in the name of tribal citizens, who, of course, received fitting remuneration for this deceit. The government, being thus cheated out of its revenue, determined to correct this abuse by driving out the cattle. No revenue arising from the twenty-five cent permit fee, it was determined to raise the fee to twenty-five dollars per annum, which was done by legislative enactment. This action being deemed oppressive and unjust by the non-citizen element, many refused payment when called on for their permits. Now began a vigorous campaign on the part of the tribal government against non-permit-paying white tenants and evaders of the cattle tax law. Governor Overton was a man well fitted for carrying out aggressive measures, his hatred of the whites being equaled only by his unscrupulous cupidity. Thoroughly organizing the militia and personally directing its movements through the country, he marched from farm to farm, leaving in his track devastated homes and driving before him like so many cattle the evicted men, women and children with their stock and household effects. The majority of these 'intruders,' rather than be forcibly dispossessed of their homes, paid Overton the extortionate permit fee, which he appropriated for the wages of the militiamen, in direct violation of his own laws. There was no formality in these collections, many of which were never accounted for. Thousands of cattle were driven out of the country, and the majesty of tribal law was completely vindicated. About two years after this raid the injustice of the $25 permit law became so glaring that it was amended so as to reduce the fee to $5. This reduction served to start the current of white im-

asaw Nations the intruder question is the most vexatious of all the complications which have arisen among these people, and the situation is constantly becoming more difficult to grasp. The want of any law to punish intrusion has encouraged this numerous class in their encroachments upon the Indian lands and in their disregard for Indian rights or the laws of the Indian country. All efforts thus far made to have Congress provide a penalty for this class of lawlessness have been futile. Section 2148, Revised Statutes United States, is a dead letter and can not be enforced. Many persons who have been removed as intruders have returned even after a second removal. Congress ought to amend section 2148, Revised Statutes, so as to provide a penalty of imprisonment and fine, not a judgment of debt which the courts are unable to collect. Then when removals are made the parties could be kept out or punished as they ought to be for again intruding.

"There are three classes of those denominated intruders, divided into, first, non-citizens who are refugees from justice in the states, many under assumed names to hide their identity, who had no regard for the laws of the states from which they fled

migration again, and the hardy pioneers of civilization began to hew them homes in the sombre forests. The discovery of coal at McAlester (1876) marked an important epoch in the progress of these nations. The development of the mines and the completion of the M., K. & T. railroad brought many non-citizen laborers to the Choctaw Nation, which in the matter of white emigration was behind the Chickasaw. Up to the date of the construction of the G., C. & S. F. railroad through the Chickasaw Nation, the development of the country was steady, but dating from that time (1887) the word most expressive of this progress is 'boom.' Thousands of American citizens poured into the country, allured by the prosperity of those who had gone before. They had heard of the fertile wilderness where crops could be gathered for the planting and taxation and mortgages were but memories of less favored climes. The towns which sprang up along the new railroad grew rapidly, but their pace was none too fast for the progress of the country. Now was the full-blood Indian's chance to become an independent lord of broad acres tilled by Anglo-Saxon husbandmen; but the echoes of progress, if they reached him in his forest retreat, did not awaken a responsive chord in his stolid nature. The citizens who reaped the benefits were generally those who already had as much land as they were entitled to under an equitable allotment. During the spring and summer of 1888 a difficulty arose between the tribal government and many non-citizens, which for a time assumed a serious aspect. In the matter of a cattle tax the Chickasaws had gone from the extreme of 12½ cents per annum to a law, the enforcement of which meant $1 per head per month. This law was restrictive, and meant to be. Under its operation the non-citizen farmer could hold but five head of milch cows and calves, besides his oxen. As might be supposed, those whose cattle exceeded the limit disregarded the law. Governor Guy took the field with his militia to enforce the collection of the tax. He confiscated enough stock from each farmer's herd to cover the amount of tax due, and rounded them up in the vicinity of Overbrook. The farmers armed and organized for protection. The spirit which animated the 'Boston Tea Party'—a sense of the injustice of taxation without representation, and resentment of oppressive discrimination—fired their hearts. A party of 'rebels' under the command of Capt. George Stewart, marched to where the cattle were held by the tax collector and his posse, and with the stars and stripes floating at the head of their column, demanded the return of their stock. The collector refused the demand, and the cattle were taken by the farmers, without resistance, in the sovereign name of American citizenship. The leaders of the non-citizens were taken to Fort Smith for trial, charged with assault with intent to murder, and promptly discharged by the United States commissioner there. Some of the cattle confiscated during this raid were sold at public sale by the tribal government, as provided by the stock law, the proceeds being appropriated by the nation. The parties buying these cattle shipped them to Kansas City for market, where they were replevied and damages recovered by the lawful owners. It is said many head of cattle thus confiscated and sold were never recovered by their owners, nor was recompense made for the loss."

and have none for the Indian laws nor rights, but who engage in whisky peddling, gambling, and various sharp practices to gain a dollar or two. This class is now comparatively small and is not increasing in numbers, because their natural inclination leads to crime and their arrest and imprisonment soon follows. The advent of the United States court in this Territory has made their business and residence insecure and many of this class have sought more promising fields in the west.

"The second class is composed of those non-citizens whose inclination is to observe and obey the laws of the country where they live, but who have been forced into the intruder class by the acts of the Indians themselves. There are many of this class in the Chickasaw Nation and few in the other nations. The greater part of the agricultural development of this country has been the work of 'permitted' non-citizens who, under contracts with individual Indian citizens, have broken out a stipulated acreage of land, erected fences, houses and outbuildings, and in return for their money and labor thus expended under such contracts enjoy the use of these improvements and land for a term of from three to twenty or more years. Although this kind of contract is a violation of the laws, that fact is many times unknown to the non-citizen at the time of making the contract. Often the Indian citizen procures a permit for his leaser for the first year, during which year the non-citizen makes about all of the contracted improvements at a cost of hundreds of dollars. In many instances dissensions then arise and the Indian refuses to have the permit renewed, and the non-citizen is placed on the intruder list and his removal demanded. In such cases this agency holds that the Indian ought in equity to pay the non-citizen for his investments before such non-citizen should be removed, because at the time of making such improvements he was 'permitted' by the Indians and his residence among them legal. While thus a legal resident of the country his labors and investments under contract with the Indian citizen have enhanced the value of the Indian's holdings; these values cannot be removed with the non-citizen, and it is certainly equitable that he should receive compensation therefor.

"In this second class I also include many non-citizens whose Indian landlords will not allow non-citizens in their employ to have a permit. For instance, one man in the Chickasaw Nation, an intermarried citizen, who has more than a hundred non-citizens on his farms, told me his men did not have and never had a permit; that he would not allow one of them to pay the permit tax; that if they were removed he would move them back; that if these men were intruders, he was responsible himself to his nation for it. This man and others like him are responsible, but the laws of the nation are not enforced against them.

"In all cases where a non-citizen becomes an intruder through violation of his contract with an Indian citizen it is held that the United States court in the Indian Territory has full jurisdiction and can give to the Indian the possession of his farm, or the non-citizen may secure compensation for his services, as may be finally determined by the court.

"The third class of intruders, and the one most productive of trouble in these nations, is that composed of so-called claimants to citizenship.

"This class is most numerous in the Cherokee Nation, though the Choctaws have one case, that of the Glen-Tucker et al., which has been pending in the department for years, and which it is cur-

rently stated involves the rights of five or six hundred persons. The Chickasaws have a few cases, which have arisen principally from the fact that Choctaws are allowed joint occupancy with the Chickasaws in that nation. The Creeks have a half dozen or so cases, none of which are causing any appreciable degree of trouble."

CHAPTER XV

THE FIRST RAILROADS

The series of treaties concluded in 1866 with the five principal tribes in Indian Territory all contained limited concessions of right of way for railroads through their country to the state of Texas. The eleventh article of the Cherokee treaty contained a grant of right of way 200 feet in width to a contemplated railroad through their domain from north to south and also from east to west.[1] In pursuance of these treaty concessions, as essentially a part of the same scheme, Congress, by appropriate legislation, (Acts of July 25, 26, and 27, 1866) granted public lands and privileges to the Kansas and Neosho, the southern branch of the Union Pacific, and the Atlantic and Pacific Railroad Companies, respectively, for the construction of their roads. The Leavenworth, Lawrence, and Fort Gibson Railroad was also conceded like privileges. (See later chapter, "Organized Invasion;" Sidney Clarke's statements.) The stipulated point of entering the Indian Territory was in each case the west bank of Neosho River, where it crosses the Kansas line. As there seemed to be some question whether more than one line of road would be permitted to traverse the Territory in each direction a race was inaugurated between all the north and south lines, each in the effort to outstrip the other in reaching the prescribed point for entering the Indian country. The Union Pacific Southern Branch (subsequently known as the Mis-

[1] The treaty with the Choctaws and Chickasaws contained the following provisions for railroads (Art. 6, treaty of April 28, 1866):

"And it is also stipulated and agreed that the nation through which the road or roads aforesaid shall pass may subscribe to the stock of the particular company or companies such amount or amounts as they may be able to pay for in alternate sections of unoccupied land for a space of six miles on each side of said road or roads, at a price per acre to be agreed upon between said Choctaw and Chickasaw nations and the said company or companies, subject to the approval of the president of the United States: Provided, however, That said land, thus subscribed, shall not be sold, or demised, or occupied by any one not a citizen of the Choctaw or Chickasaw nations, according to their laws and recognized usages: Provided, That the officers, servants and employes of such companies necessary to the construction and management of said road or roads shall not be excluded from such occupancy as their respective functions may require, they being subject to the provisions of the Indian intercourse law and such rules and regulations as may be established by the secretary of the interior: And provided also, That the stock thus subscribed by either of said nations shall have the force and effect of a first-mortgage bond on all that part of said road, appurtenances and equipments situated and used within said nations, respectively, and shall be a perpetual lien on the same, and the said nations shall have the right, from year to year, to elect to receive their equitable proportion of declared dividends of profits on their said stock, or interest on the par value at the rate of six per cent per annum.

"And it is further declared, in this connection, that as fast as sections of twenty miles in length are completed, with the rails laid ready for use, with all water and other stations necessary to the use thereof, as a first-class road, the said company or companies shall become entitled to patents for the alternate sections aforesaid, and may proceed to dispose thereof in the manner herein provided for, subject to the approval of the secretary of the interior."

souri, Kansas, and Texas) Railway Company, in the fervency of their desire to reach the line first, omitted the construction of a portion of their route, and began operations within the limits of the Cherokee country without having received the previous permission of either the United States or the Cherokee authorities so to do. To this conduct the Cherokees made vigorous objection, and appealed to the secretary of the interior. That officer notified (May 13, 1870), the railroad officials that the Cherokees did not recognize their right to so intrude upon the Territory, and that no work of the kind referred to could be permitted therein until the executive should be satisfied, by evidence submitted in proper manner, that such entry and occupation were in accordance with law. Thereupon the officers and attorneys of the several companies interested appealed and submitted arguments before the secretary of the interior on behalf of their respective interests. The point submitted for the consideration of the secretary and for the determination of the president was, what rights had been given to railroad companies to construct railroads through the Indian Territory and what railroads, if any, were entitled to such privileges and right of way.

On the part of the Indians it was claimed that the whole scheme of treaties and of legislation looked to the construction of but a single trunk road through the Territory from north to south, and, as far as the Cherokee Nation was concerned, for the like construction of but a single road through its territory from east to west. This interpretation of the treaties and the laws was admitted to be the correct one by all the companies but the Missouri, Kansas and Texas. This company insisted that the meaning of the legislation and of the treaties was to give the right of way to as many roads as might in any manner be authorized by Congress to enter the Territory.

The secretary of the interior in his opinion (May 21, 1870) expressed an emphatic concurrence in the interpretation insisted upon by the Cherokee delegation. He was further of the opinion that neither of the roads had so far earned a right to enter the Indian country by the construction of a continuous line of road to the legal point of entrance, but that as it might soon be necessary to decide which company should first completely fulfill the conditions of the law, an executive order ought to be issued declaring that no railroad company should be permitted to enter the Territory for the purpose of grading or constructing a railroad until a report should be received from a commission composed of superintendents of Indian affairs for the central and southern superintendencies designating which company had first reached the line. These views and findings of the secretary of the interior were approved by the president and directed to be carried into effect (May 23, 1870).

This commission reported (June 13, 1870) that the Union Pacific Railway, southern branch—otherwise the Missouri, Kansas and Texas Railway—reached the northern boundary of the Indian Territory, in the valley of the Neosho River on the west side, and about one mile therefrom, at noon on the 6th day of June, 1870, and that at that time there was no other railroad nearer than 16 miles of that point.

Predicated upon this report, supplemented by the certificate of the governor of Kansas that it was a first-class completed railway up to that point, permission was given the Missouri, Kansas and Texas Railroad Company by the president, under certain stipulations and restrictions as to the methods and character of construction, to pro-

ceed with the work of building a trunk road through the Indian Territory to a point at or near Preston, in the state of Texas, and the road was rapidly constructed under this authority.[2]

The Atlantic and Pacific road (the Frisco), having no competitor, experienced no difficulty in securing the right of construction of its east and west line through the Cherokee country, and was constructed, originally as far as Vinita.

The effect of the original railroad grants through Indian Territory in operating to extinguish the Indian title and in menacing the integrity of the Indian country was declared to have proved "well springs of woe to the Indian nations." In the objections filed by representatives of four of the civilized tribes to the bill pending in the house of representatives in 1885-86 for the organization of Indian Territory, it was asserted that the hope of obtaining a validation of the two railway land grants conditionally bestowed by Congress in the acts of July 25 and 26, 1866, was one of the "malign" influences supporting the bill. The effect of the acts granting lands to the "Kansas and Neosho Valley railroad," and to the "Southern Branch" of the Union Pacific from Fort Riley, Kansas, to Fort Smith, Arkansas, under which original charter the M., K. & T. railroad was constructed through Indian Territory, was to confer upon the first named company a grant of more than 2,880,000 acres of Indian land, and upon the second more than 1,824,000 acres, each grant being conditioned upon the extinguishment of the Indian title. The Indian title, however, (so the objectors asserted) was absolute, solemnly guaranteed by the United States government. Then the question is asked, in the resolutions above mentioned—What right, under the treaties, or under any known code of public morals, however lax, had the United States to make a land grant, whether absolute or conditional, through a country held by such broad, deep and exhaustive titles as those of the Chickasaws, Creeks, Seminoles, Cherokees and Choctaws? "The ninth sections of these land grant acts were declarations of war against the titles of the Indians. The United States, in effect, advised the railway companies that the Indian titles, which the Indians believed to have been settled by the treaties, were not in reality settled by the treaties; that the solemn guarantees of the treaties were hollow phrases used as temporizing shifts to put off the Indians. The United States, in effect, notified these railway companies that if, by an industrious, insidious and cunning use of the measureless facilities which the operation of long lines of railroads and the employment of large numbers of sharp and unscrupulous men would be certain to afford them, they could undermine these titles and accomplish their extinguishment, by treaties or otherwise, the reward for their intrigue and fraud should be the acquisition of millions of acres of the best lands on the western continent. The consequences of this deplorable legislation have been for twenty years most annoying to the Indian nations. These nations have found themselves confronted, everywhere, by the agents

[2] The M., K. & T. Railroad was regarded with much prejudice by many of the Indians. On opening the road in 1872 attempts were made to induce a Choctaw delegation to join the excursion to Denison. The chiefs refused, alleging that the white man had some horrible designs, like boiling the Indians in kettles. Within the next six years, says a writer in 1879, the Indian's sentiments radically changed. "He now hauls to the stations on the line his pecans, pork, corn and cotton and his surplus game, receives a liberal sum of money in exchange, and goes home satisfied that the railroad is a friendly institution."

of the railroad companies, struggling in every possible mode of activity by direct and indirect means, to weaken the hold of the Indians upon their lands. And now the representatives of these companies assert . . . that this Indian title, this ownership in common, will be extinguished by the allotment of the lands in severalty to individuals, and that the land grants conditionally conferred by the acts of 1866 will, thereupon, take effect. The undersigned are not only convinced that this scheme of validating the land grants, through the Indian Territory, has had a large influence in bringing forward this measure [for the organization of Oklahoma] (of course without the knowledge of its friends in Congress), but are also filled with the gravest apprehensions as to its results."

The protest of the Indians attracted considerable attention, and the government was placed on the defensive in explaining its position in the matter. Secretary of Interior Lamar after admitting that "railroads introduce into the Indian country an element not easily controlled by this department under existing laws," excused the granting of rights of way in the face of treaty obligations by suggesting that railroads "enhance the value of the Indian lands" and "aid in breaking down the natural aversion of the Indians to the division of their lands for individual holdings."

The suspicion felt by the Indians that the railroad would prove an effective instrument in breaking up their country was well founded in fact. From the very day that trains began running through Indian Territory, the seclusion so much cherished by the Indians became impossible. Moreover, there is reason to believe that the personal factors engaged in promoting railroad building through the Territory were also supporting the movement to organize a territorial government, as was charged in the memorial above quoted. It is an interesting, if not significant fact, that the same congressman who introduced (in March, 1866) a bill "to aid in the construction of the Kansas and Neosho Valley Railroad," soon afterward became author of a bill to give a territorial government to Indian Territory.

The original rights of way through Indian Territory were, as we have seen, granted by the treaties of 1866. If the Indians were opposed to railroads at the date of these treaties, their opposition was not manifested, or at least their greater interests then at stake caused them to grant this privilege without considering its future consequences. One railroad was built through the Territory and another partially constructed. But later, with these as precedents, other corporations sought similar privileges, so that during the first session of the Forty-ninth Congress (1885-86) ten special bills for right of way across Indian Territory had been presented. It was this great activity in railroad building, coupled with encroachment of white settlements, that roused the Indians to hostility against both the railroads and all movements that seemed to threaten the integrity of their country.

The authority of the government in relation to railroads across Indian country, and the necessity of these avenues of commerce through Indian Territory, were stated by the commissioner of Indian affairs in 1886. He said:

"The question of the right of way across this Territory has, by the decisions of the Supreme Court and by legislation previously had by Congress, been deemed to exist with the United States, and the vast growth in the development of the section of country immediately surrounding this Terri-

tory has been so remarkable during the last ten years as to make the need of additional means of communication and transportation apparent to all. The vast regions of the southwest and the large area of the middle states are now separated from each other, in a commercial sense, by the large country known as the Indian Territory, and the needs of commerce and the development of civilization are looking to the same directness and facility for transportation between themselves as exist in other more favored sections of the country." [2]

From what precedes, it is clear that the railroad, as an institution, and especially the first railroads, were among the important forces of disintegration. From the point of view of modern civilization, the railroad has done more to develop and build up Oklahoma than any other material factor, but in considering this country with reference to its origin and the purposes for which it was founded, it is evident that the existence of rail thoroughfares through Indian Territory was an inconsistency, unless accompanied by a productive and superior civilization.

[2] House report No. 1356, 49th Cong., 1st Sess. The report went on to say that ten special bills for right of way across Indian Territory had been presented at that session, that it was likely the next five years would witness great activity in railroad building between the west and southwest, and that in view of the danger and inequity attaching to the granting of special acts to railroad companies a general railroad act should be passed, allowing all responsible incorporated companies, seeking in good faith to cross the Indian Territory, to secure that right, if entitled to it, under general terms instead of by special act.

CHAPTER XVI

THE ACT OF 1871 AND CHANGE OF INDIAN POLICY

Forty years after John Marshall had delivered his famous opinion regarding the status of the Indian tribes as sovereign nations, Congress by act approved, March 3, 1871, declared "No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty; but no obligation of any treaty made and ratified with any such nation or tribe prior to March 3, 1871, shall be hereby invalidated or impaired."

When it is recalled that in their earlier relations with the Indians, the colonies were perforce compelled to recognize their hostile neighbors with the dignity due a dangerous foe, and to placate them by peace offerings and solemn promises consistent with relations between equal nations, the language of this statute indicates a complete reversal of the attitude shown by the American people to the Indians since the days of King Philip and Chief Powhatan. In early American history fear induced respect, and even after the aboriginal possessors of the soil had been driven into the western wilderness, the formality of treaty and solemn convention characterized the dealings of the government with the tribes. The hollowness of these treaty forms had been apparent for years, the Indians themselves had learned from experience that treaty guarantees were subject to reversal and invalidation by the superior power of the government, and hence the enactment of this legislation merely gave the sanction of law to a policy that in practice had been more or less effectively applied for years. At the same time, this law was a powerful instrument in the hands of those who sought to modify the possession by the Indians of their vast estates, and for this reason the abrogation of the treaty system by the act of 1871 may be justly regarded as one of the forces of disintegration now being considered.[1]

About the time this law was given effect, the Indian problem had reached a stage where its solution was imperative. The plan for an inter-tribal federation, as proposed in the Okmulgee constitution, had failed as a practical measure. The pressure of population from without, the white intrusion, the cattle industry and railway construction within the Territory, made it necessary that some comprehensive and efficient measures should be adopted to coordinate the Indian country with the rest of the Union. The time was approaching when the government must either protect the Indians under the system devised by Jefferson and Jackson, or bring them into more intimate relations with their white neighbors.

At the time of the passage of the act of 1871, the late Francis A. Walker, eminent also for his services as a soldier and as a political economist, was commissioner of In-

[1] For the manner in which this law was passed, see the following chapter, Mr. Sidney Clarke's narrative.

dian affairs. His views, published at that time and later, form the most valuable commentary obtainable upon the status of the Indians at this critical time. Referring to the future of the Indians, he declared: "Whenever Congress shall take up in earnest this question of the disposition to be made of the Indian tribes, its choice will clearly be between two antagonistic schemes —seclusion and citizenship."

Thus the issues were presented, and it will help to a proper understanding of succeeding events to state the arguments for the side of seclusion as stated by General Walker, who also describes the general advancement of the Indians in civilization and material improvement at this time.

About 1872, the year in which the first railroad was built through the Territory, while the policy of the government was still directed toward a concentration of Indian tribes in this country, notwithstanding that the pressure of white population without and the interference of the cattle interests and the "intruder class" within constituted a serious problem and a menace to the integrity of the Indian nations, an outline of the plans for maintaining an ideal reservation system was drawn by General Walker, who had recently resigned the post of Indian commissioner.[3] His recommendations are the more valuable because they afford a view of conditions at the time, and from that viewpoint we may look forward through succeeding years to the changes made by a different destiny for this country.

The reservation system, in the opinion of the ex-commissioner, should be made the general and permanent policy of the government. "The proposition is that the United States . . . should formally establish the principle of separation and seclusion, without reference to the wishes either of the Indians or of encroaching whites; should designate by law an ample and suitable reservation for each tribe and band not entitled by treaty; and should, in any reductions thereafter requiring to be made, provide that such reductions shall be by cutting off distinct portions from the outside, and not in such a way as to allow veins of white settlement to be injected, no matter whether along a stream or along a railway."

Now read what General Walker says concerning the isolation of the Indians, in recommendation of an ideal plan which the developments of the next few years rendered impossible of realization in Indian Territory. "The principle of secluding Indians from whites for the good of both races is established by an overwhelming preponderance of authority. There are no mysterious reasons why this policy should be adopted: the considerations which favor it are plain and incontestable. The first is the familiar one, that the Indian is unfortunately disposed to submit himself to the lower and baser elements of civilized society, and to acquire the vices and not the virtues of the whites. . . . . There is still another consideration even more important, yet not generally apprehended. It is that an Indian tribe is a singularly homogenous body (socially), and, if not disturbed by the intrusion of alien and discordant elements, is susceptible of being governed and controlled with the greatest ease and effect."

After stating that the 92 Indian reservations then existing in the United States, either by treaty or executive order, were widely scattered and not located for the permanent interests of either the Indian or the government, too many in number and oc-

[3] "North American Review," April, 1873.

cupying too much territory in aggregate, he continues: "What is worse, some of them unnecessarily obstruct the natural access of population to portions of territory not reserved, while others, by their neighborhood, render large tracts of otherwise available land undesirable for white occupation. Indeed, it may be said that the present arrangement of reservations would constitute an almost intolerable affliction, were it to be maintained without change. Nor are the interests of the Indians any better served by the existing order. Many tribes, even were they disposed to agriculture, would not find suitable land within the limits assigned them. Others are in a position to be incessantly disturbed and harassed by the whites. Others still, while they stand across the path of settlement, are themselves, by ill-considered treaty provisions, cut off from access to hunting grounds, to fishing privileges, or to mountains abounding in natural roots and berries, which would be of the greatest value to them."

Such being the situation of the reservations then existing, General Walker felt that the next five or ten years must witness a general recasting of the scheme of Indian reservations, "the principal object of which should be, while preserving distinct the boundaries of every tribe, so to locate them that the territory assigned to the Indians west of the Mississippi shall constitute one or two grand reservations, with, perhaps, here and there a channel cut through, so to speak, by a railroad, so that the industries of the surrounding communities may not be unduly impeded."

General Walker recommended[8] a policy of conserving the Indian reservations, of maintaining their racial integrity and promoting their welfare as an individual people requiring the supervision of the superior race that crowded about them. It is of interest to note the opposite policy which he inferred might be followed by an unwise government. This retrograde policy would be, he said, the hastening of "the time when all these tribes shall be resolved into the body of our citizenship, without seclusion and without restraint, letting such as will, go to the dogs, letting such as can, find a place for themselves in the social and industrial order, the responsibility of the government of our people for the choice of either or the fate of either being boldly denied; suffering, meanwhile, without precaution and without fear, such debasement in blood and manners to be wrought upon the general population of the country as shall be incident to the absorption of the race, relying upon the inherent vigor of our stock to assimilate much and rid itself of more, until, in the course of a few human generations, the native Indians, as a pure race or a distinct people, shall have disappeared from the continent."

"If, for the want of a definite and positive policy of instruction and restraint, they [the Indians] are left to scatter under the pressure of hunger, the intrusion of squatters and prospectors, or the seductions of the settlements, there is little doubt that the number of Indians of full blood will rapidly diminish, and the race, as a pure race, soon become extinct. But nothing could be more disastrous than this method of ridding the country of an undesirable element. . . . But if, on the other hand, the policy of seclusion shall be definitely established by law and rigidly maintained, the Indians will meet their fate, whatever it may be, substantially as a whole and as a pure race. White men will still be found, so low in natural instincts, or so alienated by misfor-

[8] "The Indian Question" (1874).

tunes and wrongs, as to be willing to abandon civilization. . . . Half-breeds, bearing the names of French, English and American employees of fur and trading companies, or of refugees from criminal justice 'in the settlements,' are to be found in almost every tribe and band, however distant. . . . The white men, who, under the reservation system, are likely to become affiliated with Indian tribes as 'squaw men,' are, however, probably fewer than the Indian women who will be enticed away from their tribes to become the cooks and concubines of ranchmen. One is surprised even now, while traveling in the territories, to note the number of cabins around which, in no small families, half-breed children are playing."

As to citizenship for the 55,000 civilized Indians of Indian Territory in 1874, General Walker declared that if they ever relinquished the autonomy guaranteed them by solemn treaties, it would be caused by their desire for the privileges of American citizenship. "These are not beggarly and vagabond Indians, to whom the offer of subsistence would be sufficient to obtain the relinquishment of their franchises, or the cession of their lands. They are self-supporting, independent, and even wealthy. Their cereal crops exceed those of all the territories of the United States combined. In the number and value of horses and cattle, they are surpassed by the people of but one territory; in expenditures for education, by the people of no territory. . . . They have already advanced so far in civilization as to secure their own future, as against anything but squatter and railroad rapacity; and their fate does not properly form a part of the Indian problem of the present day."

But excepting this body of Indians, the other less advanced tribes were, as Walker believed, so situated that the government might deal with them as wisdom dictated, regardless of treaty promises. "Few of these tribes," he says, "but are obliged, even now, to seek from the United States more aid than they are entitled to by treaty; while it is certain that in the near future most, if not all, will be thrown in comparative helplessness upon our bounty. The United States being the sole party to which they can cede their lands (8 Wheaton, 543), and the sale of the great body of these lands being their only resource, the government will have the opportuinty, not only without fraud or wrong to this people, but for their highest good, and indeed for their salvation from the doom otherwise awaiting them, to cancel the whole of these ill-considered treaties, leaving the natives where they ought to be—subject to direct control by Congress. . . . Under this relation of the parties in interest, and with the pressure of actual want, due to the inability of the natives properly to cultivate what they possess, the United States may at an early date, with good faith and judicious management, easily secure the relinquishment of every franchise that stands in the way of a satisfactory adjustment of the difficulty."

Referring to the Indian tribes outside of the Five Civilized Tribes, Walker asserts: "Unless the system of reservations shall soon be recast, and the laws of non-intercourse thoroughly enforced, the next fifteen or twenty years will see the great majority of the Indians on the plains mixed up with white settlements, wandering in small camps from place to place, shifting sores upon the public body, the men resorting for a living to basket making, beggary and hog-stealing, the women to fortune-telling, beggary and harlotry. . . . Today [1874] there is no portion of our territory where citizens of

the United States are not preparing to make their homes. To cut off a reservation sufficient for the wants of this unfortunate people in their rude ways of life; to hedge it in with strict laws of non-intercourse; turning aside, for the purpose, railway and highway alike; and upon the soil thus secluded, to work patiently out the problem of Indian civilization—is not to be deemed a light sacrifice to national honor and duty. . . .

"The claim of the Indian upon us is of no common character. The advance of railways and settlements is fast pushing him from his home, and, in the steady extinction of game, is cutting him off from the only means of subsistence of which he knows how to avail himself. He will soon be left homeless and helpless in the midst of civilization, upon the soil that once was his alone. The freedom of territorial and industrial expansion, which is bringing imperial greatness to the nation, to the Indian brings wretchedness, destitution, beggary. . . . Surely there is obligation found, in such considerations as these, to make good in some way to him the loss by which we so largely gain. . . . The cornerstone of our Indian policy should be the recognition by government and by the people, that we owe the Indian, not endowments and lands only, but also forbearance, patience, care and instruction. . . . We may as well remember that posterity will grow much more sentimental over the fate of the Indian than any Quaker or philanthropist of today. The United States will be judged at the bar of history according to what they shall have done in two respects—by their disposition of negro slavery, and by their treatment of the Indians."

That the Cherokees were entitled to be ranked among civilized communities, and that their condition was far better than that of the agricultural classes of England, was a claim advanced by General Walker in 1872. "The Cherokees," he says,[4] "number about fifteen thousand, and are increasing. They have their own written language, their national constitution and laws, their churches, schools, and academies, their judges and courts. Their dwellings consist of 500 frame and 3,500 log houses. During the year 1872 they raised three million bushels of corn, besides large quantities of wheat, oats and potatoes, their aggregate crops being greater than those of New Mexico and Utah combined. Their stock consists of 16,000 horses, 75,000 neat cattle, 160,000 hogs, and 9,000 sheep. It is needless to say that they not only support themselves, but sell largely to neighboring communities less disposed to agriculture. [The completion of the M., K. & T. Railroad through eastern Indian Territory in 1872 afforded them an outlet for these products.] The Cherokees have sixty schools in operation, with an aggregate attendance of 2,133 scholars. Three of these schools are maintained for the instruction of their former negro slaves. All orphans of the tribe are supported at the public expense. The Cherokees are the creditors of the United States in the sum of $1,716,000, on account of lands and claims ceded and relinquished by them. The interest on this sum is annually paid by the treasurer of the United States to 'the treasurer of the Cherokee nation,' to be used under the direction of the national council for objects prescribed by law and treaty."

[4] "The Indian Question" (1874).

PART IV

THE OKLAHOMA COUNTRY

CHAPTER XVII

ORGANIZED INVASION

On previous pages have been reviewed the forces that were working with the inevitability of destiny for the disintegration of the Indian country. The ground had been prepared, and now the time came for its cultivation and reaping the harvest. And men were not wanting to give personal effectiveness to the general tendencies that have already been noted.

It has been observed that a considerable per cent of the inhabitants of Indian Territory, from the time of the establishment of the five tribes there, was of white and mixed blood. But in all the efforts, before the Civil war, for the organization of a territorial government, there was not, so far as known, any definite scheme for the ultimate attainment of anything more than an Indian commonwealth, where the aboriginal tribes would continue to be preponderant, both in population and in ownership of property and civic control. Soon after the war, however, another spirit is manifested in the movements for the organization of this country. At once it becomes apparent that the promoters of such legislation were actuated by the desire not only to give Indian Territory a civil government similar to those in other territories, but also to open this country to a less restricted intercourse with the rest of the Union—in short to allow the resources of this country to be developed under the same conditions that held elsewhere, only permitting the Indian inhabitants the privileges that priority of occupation guaranteed to them. The logic at the basis of these movements was most reasonable: The Indians have possessed this fertile country for years; their possession has not resulted in complete utilization and development, and thousands of acres lie idle which a proper enterprise would make productive of all the fruits of labor and civilization; therefore, why not bestow this natural paradise upon men capable of profiting by its opportunities?[1]

These views may have been entertained among individuals for a long time, but an enterprise so vast in scope as the opening of a country larger than the average Amer-

[1] In 1859 the superintendent of the southern Indian superintendency said: "Conveyed by patent to the Cherokees, Choctaws, Chickasaws, Creeks and Seminoles, it [the Indian Territory] is *said* to belong to them in fee simple. But this is a misuse of the term; since they have no power of disposition or alienation, a power inseparable from a fee simple. They have a right of perpetual occupancy and use, and no more; but *that* right is exclusive of the whole of this vast territory, of such enormous capacity for production. These Indians actually occupy and use not a five-thousandth part, and could sell enough to make themselves and their children rich, and still have ample estates in land left for each, with princely endowments for schools and colleges. I have already spoken in a previous report, of the certainty that this fine country must ultimately, and at no distant day, be formed into states. Not only the remorseless flow of our population, but stern *political* necessities make this decree as fixed as fate." (Sen. Doc. 1st Sess., 36th Cong., vol. I, p. 531.) Elsewhere the superintendent makes his southern sympathies apparent, and probably the "political necessities" which he emphasizes refer to the opening of the Indian country to slaveholding immigration and the addition of another southern state to the Union.

ican state for settlement required, besides men of broad sagacity and great influence, the power of determined organization and persistent effort working in the medium of the federal government. For this reason, it is natural that the first comprehensive plan for the organization of Indian Territory originated in Congress, and a quarter of a century before it was finally accomplished.

For the history of these movements it is fortunate that the narrative of the principal actor in the long struggle for the opening of Oklahoma can be published here. This narrative, as dictated by Mr. Sidney Clarke for this publication, forms the most interesting of the "original documents" in the bibliography of Oklahoma history, since it is the detailed personal experience of the man who consistently for a period of forty years advocated and worked with all the adroit persistency of his nature for the opening of the Oklahoma country and its development into statehood. The story as told by Mr. Clarke reviews many of the events discussed on previous pages, and also carried the history of Oklahoma forward to accomplished statehood. Though it thus anticipates many of the succeeding chapters, his narrative possesses a continuity of interest that forbids its insertion in chronological order. Mr. Clarke's review of the movements which brought about the establishment of Oklahoma, first as a place of white men's colonization, and later as a state, follows:

"My interest in the opening of Oklahoma to settlement and civilization commenced soon after my location in Kansas in the spring of 1859. I was attracted there, like thousands of others, because of the great controversy that was then going on between freedom and slavery. The whole country was profoundly excited as to whether Kansas was to become a free or a slave state, and all over New England and the northern states the trend of emigration was to that territory. I was the editor of a paper in my native town in Massachusetts, and ardently supported Fremont and Dayton in the presidential election of 1856. On my arrival in Kansas I immediately became identified with the Free State party. Constitutional conventions had been held at Topeka, LeCompton and Leavenworth, but all the constitutions formed were rejected by Congress. It seemed settled, however, that Kansas was to be admitted as a free state at the time the Wyandotte constitutional convention assembled, July 5, 1859. That convention was composed almost entirely of free-state men. They formed what is now, with the exceptions of a few amendments, the constitution of Kansas, and in the ensuing fall the first free-state government was elected, though the territory was not admitted to statehood until January 29, 1861.

"The slavery question settled, public attention was attracted to questions relating to the material development of the state. At that time the Missouri Pacific Railroad had only reached Jefferson City on the east, and it was not until some time later that the Hannibal & St. Joseph Railroad reached the Missouri at St. Joseph. The proposition of an outlet to the Gulf was regarded as of supreme importance by those of us who believed in the future possibilities of Kansas, Nebraska, and the Indian Territory on the south. The result of the agitation was that, when the usual land grants made to new states by Congress were made to Kansas in 1863, one of the lines of railroad provided for was from Leavenworth on the Missouri River by the way of Lawrence to the south line of the state in the direction of Galveston, Texas.

"This road was a favorite project of Gen. James H. Lane, the most conspicuous of the free-state leaders, and who afterward became one of the first United States senators from Kansas. I read law in the office of General Lane at Lawrence, became his private secretary, went with him to Washington, and remained in that position during the first year of the Civil war. I was thoroughly imbued with the idea that an outlet to the Gulf was the natural course of transportation for the products of Kansas and the surrounding states and territories, and that the time must soon come when the treaties that closed the door to the entry of white settlement in the Indian Territory would be modified, and that in the progress of future emigration they must give way to the necessities of the situation. I realized then, with others, that the battle to break down the treaty system and supplant it with a more liberal policy would be hard and long, but I was confident of the outcome, and thought that I saw clearly that the great southwest was to be formed into a galaxy of states instead of being forever dedicated to Indian possession. I was thoroughly possessed of the idea expressed by William H. Seward in one of his speeches on the Kansas controversy, in which he said: 'When the emigrant from the old world shall find his way to the new, and steps his foot on the west bank of the Missouri, he will there enter upon a broad land of impartial freedom.'

"As time went on my interest increased in the question of opening the Indian Territory to settlement. I realized that the treaties which provided that the country of the five civilized tribes should never be included in the limits of any territory or state were a serious barrier to the railroad outlet to the Gulf, but I was in no way discouraged. As a member of the state legislature in 1862 I continued to urge the importance of the project. In the fall of 1864 I was elected to Congress, which gave me a wider field for agitation and placed in my hands more effective weapons for efficient work. I introduced and Congress passed several bills providing for lines of road terminating on the south line of the state. My bill granting lands to the state to aid the Kansas, Neosho Valley Railroad Co. to construct a line of road from the eastern terminus of the Union Pacific Railroad, Eastern Division, which became a law on July 25, 1866, provided for a line through the eastern tier of counties to the south line of the state with a provision for its extension so as to effect a junction at Red River with the road then being constructed from Galveston to Red River at, or near, Preston in Texas. This bill was intended to carry out the purpose of the land grant act of 1863, which contemplated the line through the Indian Territory with Preston as the terminal point.

"Section 8 of the bill went still further and provided that with the consent of the Indians by treaty, endorsed by the president, any railroad company under any law of the United States, or the state of Kansas, might unite with the Neosho Valley Railroad Co. in the valley of the Neosho river; and further provided that should the Leavenworth, Lawrence & Ft. Gibson Railroad Co. or Union Pacific Co., southern branch, construct and complete its road to that point on the southern boundary of Kansas where the line of the Kansas & Neosho Valley Railroad Co. crossed the same before the Kansas & Neosho Valley Railroad Co. had completed its road to said point, then in that event the company first reaching the state line was authorized, upon obtaining the written approval of the president of the United States, to construct and

open a line of road through the Indian Territory to a point near Preston in the state of Texas.

"I have referred to these laws in detail because they constituted the first practical movement to penetrate the Indian Territory with a railroad and broke the first link that bound that territory as with chains to the policy of exclusion of white settlement.

"The first step having been taken looking to the final opening of the Indian Territory, other efforts followed in more rapid succession. On entering Congress I became a member of the committee on Indian affairs, and also a member of the committee on the Pacific Railroad, then in course of construction. The question of providing a territorial government for the Indian Territory seemed to me to be the second logical step looking to its final opening. I had no desire, nor had the committee of which I was a member, to violate any of the treaties which protected the five tribes in the possession of their lands, or to impair, in any way, the practical fee simple title by which these lands were held. But, at the same time, the lands lying west of the five tribes, subsequently organized into the territory of Oklahoma, were held by different tenures and were controlled by various treaty stipulations, and were occupied by a very few Indians. These anomalous conditions were subjects of protracted discussions in the committee. Col. Robert T. Van Horn, representing the Kansas City district in Missouri, was a member of the committee and took a deep interest in the project to establish civil government in the Indian Territory, and to open the way for railroad transportation to the Gulf. Col. Van Horn, who is still living, was an exceedingly able member of Congress, a brilliant editor, a comprehensive statesman, and in all respects one of the best men I ever knew in public or private life. He introduced in the thirty-ninth Congress [1866] a bill to establish a territorial government covering the whole of the Indian Territory, but the Indians, supported by treaty stipulations, denied the right of Congress to establish such a government and nothing was accomplished in that direction.[2] The

[2] The reporting of a bill creating a territory of Oklahoma, from the house committee on territories, February 2, 1873, brought out a strong protest from the Creek and Cherokee delegations. D. N. McIntosh and Pleasant Porter represented the Creeks, while the Cherokee delegates were W. P. Ross, William P. Adair and C. N. Vann. Their memorial (in house Mis. Doc. No. 110, 42d Cong., 3d Sess.), after asserting the inviolable right of the Indians to their lands, and protesting against the alleged misstatements of the committee's report, proceeds in the following vigorous and emphatic language:

"Above all do we protest against a measure to throw our country open to those who covet our lands, to break down our governments, so as to leave us at the mercy of our enemies, and to destroy our organization as a people, so that our property and our land might be left without legal owners, to the end that railroad corporations might seize them, while they endeavor to cover up this cruel wrong by the pretext that it is a 'contest between savageism and civilization.' . . .

"Throughout this report, and in the arguments used to you against us, it is continually assumed that the Indian country is the theatre of violence and lawlessness; that there is no adequate government machinery; that immense herds of Texas cattle are stopped at our borders and cannot cross to market; that railroads cannot be built; that emigrants cannot pass; that white men can only be tried by Indian tribunals; that the 'necessities of civilization' are in an agony, and that a savage Indian, with war paint and tomahawk, stands guard at the gateway of civilization.

"The absurdity of such statements . . . is only equaled by their mendacity. . . . Not only have our people exported large herds of cattle to your markets. . . . Every year hundreds of thousands of these [Texas] cattle are peaceably driven through our country. During the emigrant seasons hundreds of emigrant teams crowd the highways through our country, and a murder or robbery against them has hardly been known. In all cases between white man and Indians the jurisdiction by law and treaty is in

bill was re-introduced in the fortieth Congress, and while frequently discussed was not supported by a majority of the committee. In the forty-first Congress I became the chairman of the committee. The bill was again re-introduced, favorably reported to the house, and was taken up for consideration. The committee on the territories, of which the Hon. S. M. Cullom (now senator from Illinois) was chairman, raised the question of jurisdiction, and a protracted debate ensued on the right of the Indian committee, under the rules of the house, to report a territorial bill. As a result of the debate the bill was referred to a joint committee, composed of members of the Indian committee and territorial committee, for further consideration, and the session expired without any final action. It was in this bill that the name of Oklahoma first made an official appearance. It was suggested by Col. E. C. Boudinot, Jr., a Cherokee lawyer, who was in full sympathy with an active worker for the opening of the Indian Territory to white settlement. Colonel Boudinot rendered to the friends of the movement most effective service by arguments before the Indian committees of both houses of Congress, by public speeches, and by furnishing a vast amount of useful information bearing upon questions of Indian possession. He regarded most of the land west of the five tribes as substantially public lands, and, as they were largely unoccupied, he believed that they should be opened to homestead settlement. Colonel Boudinot was a remarkable man in many ways. He was an able orator, with a vast amount of historical information, and was devoted alike to the welfare of his race and to the progress of white civilization in the southwest.

"In this connection let me state the manner in which the treaty system which had prevailed since the foundation of the government was abolished. I was a member of the conference committee on the Indian appropriation bill in the forty-first Congress. Mr. Sargent of California, and Mr. Beck of Kentucky, both of whom were afterward senators, were my colleagues on the part of the house, and Mr. Morrill of Maine, Mr. Harlan of Iowa, and Mr. Davis of Kentucky were the members on the part of the senate. The committee was in session during an entire night. After all de-

the courts of the United States. . . . It was provided by treaty that a distinct United States court for the Indian Territory should be created, and we have petitioned you earnestly for its immediate creation. If it has not been so far created, the fault is yours, not ours. That the public peace is jeoparded for want of law is, however, a gross exaggeration. Railroads are being peaceably built through our country. They are in part built in advance of the demands of business and because it was a speculation to build them, and the animus of no small portion of all this hostility against us comes from the desire to convince you that lands held by the Indians are something that can be stolen with impunity whenever they are sufficiently valuable to tempt cupidity."

A memorial, dated June 12, 1878, opposing the passage of a bill to organize the territory of Oklahoma, was signed by the following representatives of the five tribes: P. P. Pitchlynn of the Choctaws, W. P. Adair and Dan H. Ross of the Cherokees, John R. Moore, P. Porter, D. M. Hodge and Yarteker Harjo of the Creeks, John F. Brown and Thomas Cloud of the Seminoles, and B. F. Overton, the Chickasaw governor.

The provisions of the bills before Congress to which the Indians objected were the following: 1. The opening to white settlers of country set apart by law and treaty exclusively for Indians. 2. The extension of United States laws and court jurisdiction to all causes of action, civil or criminal. 3. Abolition of tribal relations and adoption of Indians as United States citizens. 4. Lands in severalty. The memorialists claimed that such provisions conflicted with the solemn guarantees that no part of lands should be included, without the Indians' consent, in the limits of any state or territory, and the promise that they be forever secured the right to be governed by their own laws.

tails had been settled I remarked to the committee that about two years before I had introduced a bill in the house providing that it should not be *competent* for the United States to recognize the Indian tribes as independent nations, but that hereafter all contracts with said tribes must be ratified or rejected by both houses of Congress. Without objection on the part of the senate confrères my bill was inserted in the conference report and in this manner became the law of the land. I think it safe to say that had it not been for the abrogation of the treaty system at that time the settlement of Oklahoma would have been much longer delayed.

"While the agitation still went on, it was not until 1878-9 that the question of opening Oklahoma to white settlement became more prominent in Congress. In the meantime emigrants to the west were numerous and the frontier states were rapidly filling up with new settlers. The land west of the five tribes, being mostly vacant, passed into the illegal possession of cattlemen, and vast cattle ranches were established in the Cherokee outlet, in the Cheyenne and Arapahoe country, and in the lands ceded by the Seminoles and Creeks. Naturally this condition of affairs led to controversy between those who were seeking homestead settlement in the west and the men who controlled the cattle industry. As time went on this feeling became exceedingly bitter, and at the commencement of Mr. Cleveland's first administration the question of opening the country to white settlement became still more prominent. It was a battle between the cattlemen on one side and the homestead settlers on the other.

"It was at this time, and even before, that Capt. David L. Payne became the advocate and leader of the *intending* settlers. Capt. Payne was a remarkable man. He was a Union soldier in the Civil war, and was not finally discharged from the army until 1867. In 1868, when General Sheridan made his famous campaign against the Cheyennes and Arapahoes, Payne served as a scout over western and central Oklahoma, and in this way became familiar with the condition and resources of the country. On his return to Washington he became an officer of the house of representatives and commenced to organize a movement to invade Oklahoma, on the theory that it was public land, and should be opened to homestead settlement. He originated the organization of what was known as the Payne Oklahoma Colony. The members were made up mostly from the western and central states, but it is probable that there was not a state in the Union but had some of its citizens on the roll of the colony. The energy and determination with which Payne pursued his propaganda is well known to the country. He was repeatedly arrested by the United States authorities and dragged out of Oklahoma in the most brutal manner. But this did not in the least deter him from his purpose. He sought these arrests with a view of testing in the courts the legal status of the land his colony was seeking to occupy, but the United States evaded the issue, and in every case he was discharged without a trial. The sudden death of Payne at Wellington, Kansas, did not check the movement he originated. Capt. W. L. Couch, a native of North Carolina, subsequently of Kansas, became the leader of the colony, and with an energy not less determined than that of Payne continued the battle for the possession of the country. I first met Captain Couch at a convention of Boomers held at Topeka during the session of the legislature of 1879. I was at that time a member of the Kansas legisla-

ture and speaker of the house. The convention was largely attended and resolutions were passed strongly favoring the movement. Addresses were made by myself, Hon. David Overmire of Topeka, and several others, before the members of the legislature in the hall of the house of representatives, urging the opening of Oklahoma and invoking the influence of the people of Kansas, through their legislature, in that direction. It became evident that the views which we entertained as to the status of the Oklahoma lands could not be carried out without congressional action, and steps were taken for an appeal to Congress looking to the establishment of a territorial government. After the election of Cleveland in 1884 I represented the colony at Washington and commenced there the work which, in its varying fortunes, only ended with the passage of the enabling act creating the state of Oklahoma. It would require a volume to relate all the incidents connected with this long and earnest controversy.

"In July, 1885, I first visited the western part of Oklahoma and made a thorough investigation of existing conditions. I was commissioned by the Chicago *Tribune* to go to Ft. Reno with General Sheridan, who was sent there by the president to settle, peaceably, if possible, the trouble with the Cheyenne and Arapahoe Indians. I was ordered to send full dispatches to the *Tribune*, not only in reference to these troubles, but also the true facts as to the possession of the country by the cattlemen. It had been contended in the United States senate that there were no cattle in the disputed lands. General Sheridan came out from Washington accompanied by General Miles, who had had large experience in connection with Indian affairs. I joined the party at Lawrence. When we arrived at the terminus of the railroad at Caldwell, Kansas, military preparations had been made for Sheridan's journey to Ft. Reno. Troops had been stationed every eight or ten miles over the entire road, as it was understood that the Indians were about to go on the war path. The governor of Kansas had concentrated a large body of militia near the state line and the war department had ordered to Ft. Reno troops from Nebraska, Utah, Montana, Idaho and Texas. We had great difficulty in reaching Ft. Reno and were greatly hindered by the floods at Pond Creek, the Cimarron and Salt Fork. When we reached the Cimarron it was crossed by constructing a boat out of an army ambulance, wrapping it with canvas, and hauling it across the stream to the south side by a long rope. On arriving at Ft. Reno a serious state of affairs was found. The Cheyenne and Arapahoe Indians were in an ugly mood. They had on their war paint and were in open rebellion, not only against the white people who were crowding on their reservation, but against the cattlemen who had divided their reservation into six large pastures from which the Indians were obtaining but little revenue. After repeated councils, General Sheridan ordered them to report to Darlington agency on a certain day, for the purpose of being counted. The order was obeyed, but in making their camp they crowded in close to the agency buildings, and erected their tepees so irregularly that it was impossible to make a correct census. At a conference with the chiefs they absolutely refused to move their tepees and threatened war. As a result of the council General Sheridan informed them that unless on the following day they moved out upon the prairie with their tepees, located at a certain distance apart, pointed out by him, he would order out the troops and force

them to do so. To this ultimatum the Indians refused to accede. Upon reconsideration, however, they concluded to obey Sheridan's order, and the camp was established in regular form and the census of the tribe taken. I was present during the count, and with the exception of twenty or thirty engaged in teaming between Caldwell and Ft. Reno, an accurate count was made. My recollection is, that the number was about 2,100 less than the beef rations that had been previously issued to the Indians by the fraudulent contractors. Notwithstanding that the Indians consented to be counted, they still maintained a hostile attitude, and it was not until General Sheridan ordered out the army, fully equipped for action, composed of about twenty-eight troops, to enforce his demands, that the Indians showed any disposition to make a peaceable agreement.

"While these events were transpiring the condition of affairs was submitted by General Sheridan to President Cleveland and his cabinet. They were told that the cattlemen and the beef contractors were the real cause of the trouble. The opinion of Attorney General Garland was asked as to the legality of the cattlemen's occupancy. It was promptly rendered to the effect that their occupancy was entirely illegal, not only in the Arapahoe and Cheyenne lands, but in the Cherokee outlet and other Indian lands. This opinion resulted in the tearing down of fences on the Cheyenne and Arapahoe reservation, the removal of cattle, the appointment of a new agent, and a thorough exposure of the frauds that had been practiced upon the government and Indians in many ways. After negotiations were peaceably concluded, in company with a representative of the Chicago *Herald,* I made a trip as far east as Council Grove, about eight miles west of the present location of Oklahoma City, and scouted for several days through the surrounding country. I found that instead of its being true, as stated in the senate, that the country visited was free from cattle occupancy, thousands of cattle were scattered over the prairies. We lived sumptuously with the cowboys in their numerous camps, getting much information, all of which I reported to the *Tribune.* With this experience I felt better prepared to represent the boomers, and on my return to Washington at the following session of Congress I was armed and equipped with weapons for a vigorous warfare. The Chicago *Tribune* had been vigorously advocating the Oklahoma movement and we were greatly indebted to that paper for creating public sentiment in its favor.

"Early in December, 1885, I was asked by Gen. James B. Weaver of Iowa, William M. Springer of Illinois, members of the house, and by Senator Charles H. Van Wyck of Nebraska, to prepare a bill providing for a territorial government for the territory of Oklahoma, for introduction into the house and senate. The day I received the dispatch Captain Couch reached my home at Lawrence, Kansas, and we immediately prepared the measure and forwarded it to Washington. Soon after Captain Couch and myself proceeded to that city. After long consideration by the house committee, and some changes, the bill took the name of the Springer bill, that gentleman being chairman of the committee on territories, and an ardent friend of the measure. Feeling the need of the influence of the press in the eastern states I went to Charles Nordorf, at that time one of the editors of the New York *Herald,* and chief of its Washington bureau, and invoked the support of the *Herald* for the territorial bill which had been introduced.

Mr. Nordorf was the author of the history of California, and feeling a deep interest in the progress of the west, he at once, in his correspondence with the *Herald,* and in editorial articles, entered upon a vigorous support of the Springer bill, publishing almost daily elaborate articles about the conditions which existed in Oklahoma, and giving the reasons why the cattle interests should be displaced and the country opened to homestead settlement. I labored to the best of my ability to convince Secretary Lamar, of the interior department, and also President Cleveland, that the influence of the administration should be used to open Oklahoma to settlement. Mr. Cleveland listened patiently to my appeals, and at one time seemed to accept the views I entertained in regard to creating the territory of Oklahoma, but the interior department, under Secretary Lamar, was wedded to the exclusion policy and favored the possession of the cattlemen. Of course, we had the opposition of the five tribes. As often as Captain Couch, myself and others, appeared before the committees of the house and senate, arguing in favor of the bill, we were met by the representatives and attorneys of the Indians with the claim that the treaties provided that the country should never be included within the limits of any territory or state. This was a hard proposition to meet, although many of the members of Congress believed that the time had come to exercise the power of Congress by direct legislation. I will not give in detail all the various features of the controversy over the bill, extending up to the session of 1889. It was a long and bitter fight. I want to say, however, that to Gen. James B. Weaver, Mr. Springer of Illinois, Mr. Mansur of Missouri, Senator Van Wyck, and to Mr. Stockdale of Mississippi, we were more largely indebted than to any other men for waging the battle in our behalf. The Springer bill was passed in the house by 46 majority after a most desperate controversy. The bill had been on the calendar and entitled to consideration for many weeks, but the committee on rules arbitrarily refused to set a day for its consideration. In the meantime that session of Congress was drawing to a close and the bill could not receive consideration without a special order. Under these circumstances General Weaver commenced a filibuster, which lasted three days, forcing the committee on rules to abandon its arbitrary denial and set a day for the consideration of the bill.

"When the bill reached the senate it was referred to the committee on the territories and was vigorously opposed by the cattle interests. Ex-Senator McDonald of Indiana and a law firm from New York, as well as the Indian attorneys, appeared before the committee denying the right of Congress to pass the bill, and made protracted arguments against its being favorably reported to the senate. Notwithstanding these appeals the bill was favorably reported and placed in the hands of Senator Cullom, who was instructed to call it up for consideration at the earliest opportunity. When the bill was called up, much to our surprise, it was strongly opposed by Senator Plumb of Kansas, and by other senators whom we had reason to believe would give it their support, and after a heated discussion the bill was defeated by a yea and nay vote. But desperate as the situation was, neither Captain Couch nor myself, who had spent much time and money at Washington, were not wholly discouraged, and we appealed to our friends in the house to provide for the opening of what is now known as original Oklahoma, by an amendment to the Indian appropriation

bill. The amendment was hastily prepared by General Weaver, Mr. Springer, Mr. Perkins of Kansas, Captain Couch and myself, passed the house that night, and after much opposition in the senate, was adopted and became a law. It contained no provision for any kind of government but it aroused at once an increased interest in all parts of the country in the Oklahoma movement. The members of the Payne colony, as well as intending settlers in all the border states, began to gather in Kansas preparatory to entering the promised land.

"The president's proclamation fixed April 22, 1889, at 12 o'clock, as the time of opening. When the time arrived, thousands of people were gathered upon the borders ready to rush in and take possession. Never before in the history of the United States, or any other country, was such a scene presented as the rush for free homes at the opening hour. Although the area of the land opened amounted to but little more than 1,800,000 acres there were ten times more people ready to take land than there was land to take. The run was made from all sides at precisely 12 o'clock, M. From the south line of the Cherokee outlet, from the Indian reserves on the east, from the South Canadian river on the south, and from the Cheyenne and Arapahoe reservation on the west, came the excited thousands. It was altogether a most wonderful gathering of people. All classes mingled in the rush. Before the going down of the sun on that eventful day more than 50,000 people had commenced to make their homes. It must be said to the credit of all that there was little disorder or ill feeling in this remarkable movement of population, considering that self interest was one of the potent forces. Oklahoma City and Guthrie were the central points in the great rush. Probably 10,000 people were on the townsite of Oklahoma City by nightfall, and an almost equal number on the townsite of Guthrie. In the absence of all law, either federal or local, provisional municipal governments were immediately formed for the protection of life and property. Captain Couch was elected mayor of Oklahoma City and the usual form of municipal government, which obtained in the state, was adopted. The act creating the territory of Oklahoma was approved on May the 2d, 1890. Considering the exceptional conditions that prevailed from the opening day up to that time, it must be said to the credit of the first settlers of Oklahoma that life and property were as safe as though there had been a regular government in operation. During this period a movement was originated at Guthrie to establish a provisional government over the entire territory. This movement met with very stern opposition from the citizens of Oklahoma City and the people in general. A convention was called at Frisco in Canadian county for the purpose of protesting against it. This convention was the first general convention that was held in Oklahoma, and was largely attended. After a heated discussion of the project pro and con, it was resolved that it would be impossible for a provisional territorial government, unless established with great unanimity, to compel obedience to its laws, or to enforce a system of taxation from which it could derive support, and notice was given that the people would refuse to recognize any such government. And this was the end of the project.

"Soon after the act organizing the territory became a law, the statehood movement was started. The first convention was held at Oklahoma City in 1891. I prepared the call for the convention, and

had it endorsed by the Oklahoma City Commercial Club. The convention was in many respects a notable gathering. It was composed of the leading men of the territory, and much interest was manifested in its proceedings. All phases of the statehood question were ably debated and a memorial to Congress was adopted, setting forth the conditions existing here, and praying for the passage of an enabling act admitting Oklahoma as a state. The statehood movement, which commenced at that time, covered a period of more than fifteen years. Conventions were held at Purcell, El Reno, Kingfisher, Oklahoma City, Shawnee and Guthrie. For the first ten years of the controversy the movement was of an entirely non-partisan character. Democrats, Republicans and Populists participated, and vied with each other in the effort to secure statehood. I was for ten years the chairman of the non-partisan executive statehood committee, composed of one member from each of the counties in the territory, and during all that time every possible influence was brought to bear to secure the passage of an enabling act. As the representative of the committee, and afterwards in behalf of the commercial and business interests of the territory, I advocated the admission as a state before the committees of Congress with whatever ability I possessed. In every Congress statehood bills were introduced and arguments made before the territorial committees in behalf of the measure. The senate committee was the tomb of all these bills. In the fifty-third Congress General Wheeler of Alabama, chairman of the committee on the territories, favorably reported a bill for the admission of the territory of Oklahoma as a state by unanimous vote of the committee. Although the territory was less than five years old the report declared that 'The committee is convinced that there is an enviable future for this territory, and that its progress would be much enhanced by its being admitted to statehood.' In the fifty-fifth Congress a statehood bill was favorably reported, and the report concluded as follows: 'In the opinion of the committee no territory has ever been better situated to enter the Union as a state.' While these bills died upon the calendar of the house, we pursued the matter in each succeeding Congress and in the fifty-eighth Congress, what was known as the Flynn bill passed the house without a division. This measure met with determined opposition on the part of the senate committee, and after a full hearing a majority of the committee reported a substitute providing for joint statehood for Indian Territory and Oklahoma. Senator Quay of Pennsylvania, and the Democratic members of the committee, dissented from the report of the majority and endorsed, in elaborate reports, the Flynn bill as it passed the house. Senator Quay took charge of the bill in the senate and had a majority of sixteen in its favor. But a filibuster was organized in the senate and by protracted speeches and other tactics, a vote on the measure was defeated. This was a great disappointment to the people of Oklahoma, but it in no way abated their desire for statehood. The contest in Congress for recognition went right on as before. In the meantime the population of both Oklahoma and Indian Territory rapidly increased. Altogether it was many times larger than that of any other territory which had been admitted as a state, the opposition to the passage of an enabling act gradually diminished until the passage of the act under which we entered the Union.

"During the many years that I was identified with the movement to open Okla-

homa to settlement, and with the statehood movement, I was brought into contact with many of the prominent men of the country, and was placed under many personal and public obligations for the courtesy and kindness with which I was treated. If I were called upon to name one man to whom the people of Oklahoma owe the greatest debt of gratitude because of unselfish devotion to their interests in all the early stages of the controversy, I should name Gen. James B. Weaver of Iowa. He entered Congress at the time when the services of an able and courageous leader were most needed. He had been a candidate for president of the United States, was a gallant general in the Union army, an able lawyer, a skilful debater, in full sympathy with the common people, and in every way abundantly qualified to meet our opponents in Congress or elsewhere. Had it not been for the remarkable filibuster, to which I have alluded, the Springer bill would never have been considered by the house, and no one can tell how long it would have been before Oklahoma would have been opened for settlement.

"Another statesman to whom Oklahoma owes a debt of gratitude was William M. Springer of Illinois. For twenty years he was an able member of the house of representatives. As a leader of his party, as an able parliamentarian, and accomplished legislator, he championed our cause with an enthusiasm which commanded our admiration. And still another man equally able and efficient in our behalf was Senator Charles H. Van Wyck of Nebraska. Senator Van Wyck was at one time a member of Congress from a district in New York. He was my personal friend, a friend of the people, courageous, honest, and an ideal public servant. The first member of the house from the southern states enlisted in behalf of Oklahoma was Thomas R. Stockdale of Mississippi. I remember well when I pressed our case upon his attention and how he promptly espoused our cause. The congressional records will show the great ability with which he advocated the establishment of a territorial government. Mr. Stockdale was a Pennsylvanian by birth, settled in Mississippi in 1857, held many responsible offices, was four times elected to Congress, and was afterwards judge of the supreme court of that state. Still another man whose services were of great value to Oklahoma was Samuel W. Peel of Arkansas, who was for many years chairman on the committee of Indian affairs of the house. His residence in Arkansas, adjacent to the Indian Territory, and his position as a member of the committee, made him familiar with the conditions in Oklahoma and in the fragmentary legislation connected with the original opening his services were invaluable.

"In looking back over the long controversy in connection with the Indian question and in the securing of the territorial organization and the statehood bill, I recall many and varied incidents. While I was chairman of the house committee on Indian affairs I was invited to deliver an address in New York City, at Cooper Union, on the proper solution of the Indian problem. I accepted the invitation, and spoke at length advocating the abolition of tribal relations, the division of the land in severalty, and liberal appropriations to pay for their surplus land and for their industrial education. I insisted that the Indian tribes should be no longer treated as independent nations, and that as our Christian civilization was better than barbarism, the protection of our laws should be extended over every reservation in the United States. I contended that our Indian policy ought to

be equitable and just to all concerned, but at the same time it must be recognized that the jurisdiction of the federal government was supreme. I made no exception of the five civilized tribes, calling attention to the fact that it was inevitable that territorial government and statehood would be established there in the not distant future. To my surprise these views met with enthusiastic responses from the great audience and the venerable Peter Cooper, who presided, and the Rev. Howard Crosby and other speakers strongly endorsed my position as the practical solution of the Indian question.

"My public life in Kansas commenced in 1861 as a member of the second legislature, at the very time we were planning for a railroad outlet through the Indian Territory to the Gulf of Mexico. From February 9, 1862, to February 20, 1865, I served in the Union army as assistant adjutant general of volunteers; first on the staff of Major General James G. Blunt, and afterward as assistant provost marshal general for Kansas, Nebraska, Colorado and Dakota, with headquarters in the city of Leavenworth. I was superintendent of the volunteer recruiting service for the same district. This necessarily made me familiar with the condition of affairs that existed in the Indian Territory and fastened upon me the conviction that a great state ought to be created here at the earliest possible moment. When I was first elected to Congress in the fall of 1864, and during the succeeding six years that I was a member of the house, my interest in the opening of this country and formation of a state was constantly increasing. I remember well the talk I had with Mr. Lincoln in regard to the future of this interior country. Mr. Lincoln had visited Kansas and made speeches in several of the Missouri river towns and his election to the presidency had grown out of the Kansas controversy. His whole life had been practically identified with the pioneers of the west. Hence it was he felt a profound interest in the settlement of the west and the founding of states out of the Louisiana Purchase. With the exception of President Arthur I have had a personal acquaintance with all the presidents since 1861. In 1866 I urged upon President Johnson the propriety of a movement looking to the creation and establishment of civil government in the Indian Territory.

"During the administration of President Grant I frequently urged upon him the necessity of such legislation, and as I have already said I pleaded with Mr. Cleveland to give his official sanction to our cause. When General Grant became president he adopted what is known as the 'Quaker policy' for the purpose of eliminating from the Indian service the grafts that had become common scandal in connection with many of the Indian agencies and contracts for supplies. The Indian agents were selected from the ranks of the Quaker denomination, and these officers were removed as far as possible from partisan control. But President Grant was by no means satisfied with the reservation system or with the independent tribal governments. My position as chairman of the house committee of Indian affairs in the forty-first Congress, which included the first two years of his administration, gave me the opportunity to urge upon him my views, and the views of the members of my committee relating to the assignment of the land of the Indians in severalty and the abolition of the tribal governments. He admitted that such a result would be finally reached and that citizenship and the individual home would be best, especially for the five civilized tribes in the Indian Territory, and for

all other Indians who had attained a high degree of civilization. But he doubted whether it would be wise at that time to apply the policy to the tribes less advanced in the habits of civilized life.

"President Hayes had some advanced ideas on the Indian question. As a member of Congress, with whom I was associated, and as president, he took more than a passing interest in the management of the Indian service and at times was greatly troubled on account of the unsatisfactory conditions that existed. I urged upon him, as I had urged in Congress and upon other presidents, that the time had arrived when the federal government should, by proper legislation, settle the Indians upon homesteads and open the surplus land to white settlement, compensating the tribes upon an equitable basis. Already the movement to open Oklahoma to settlement was in motion. Payne and Couch and others were planning an invasion. During the winter of 1878-9 the movement assumed such formidable proportions that President Hayes issued a proclamation warning the intending settlers that if they entered upon the lands they would be removed by military forces of the United States. In his third annual message to the ensuing session of Congress President Hayes said: 'It is my purpose to protect the rights of Indian inhabitants of that territory to the full extent of the executive power; but it would be unwise to ignore the fact that a territory so large and so fertile, with a population so sparse and with so great a wealth of unused resources, will be found more exposed to the repetition of such attempts as happened this year when the surrounding states are more densely settled and the westward movement of our population looks still more eagerly for fresh lands to occupy. Under such circumstances the difficulty of maintaining the Indian Territory in its present state will greatly increase, and the Indian tribes inhabiting it would do well to prepare for such a contingency. I therefore fully approve of the advice given to them by the secretary of the interior on a recent occasion, to divide among themselves in severalty as large a quantity of their lands as they can cultivate; to acquire individual title in fee instead of their present tribal ownership in common, and to consider in what manner the balance of their lands may be disposed of by the government for their benefit. By adopting such a policy they would more certainly secure for themselves the value of their possessions, and at the time promote their progress in civilization and prosperity, than by endeavoring to perpetuate the present state of things in the Territory.'

"Mr. Garfield was another president whose vision extended beyond the Mississippi. He was a student and a statesman. He was the friend of the new states and wanted more. Had he lived out his term I am confident that he would have aided the Oklahoma movement in his official capacity. I was his seat companion during one Congress, and often discussed with him the status of the Indian tribes, and the necessity of establishing civil government in all the unorganized portion of the Louisiana Purchase. He agreed that holding the land in common must give way to individual ownership, and that the welfare of the Indians would be promoted by adopting the laws and customs of the white population by which they were surrounded.

"Now that Oklahoma has been admitted to the Union and destined in the near future to be one of the most populous of American commonwealths, I cannot but feel that the long and expensive controversy with which I was connected has brought to me abund-

ant compensation. I had no expectation of an official position in the new state, or of any personal benefits for services rendered, but having been connected with the struggle to make a free state of Kansas as in Oklahoma, and experiencing the magnificent results which followed, I feel now that the highest honor that can come to any man is to be numbered among the founders of great and prosperous states, in which is enacted a just system of laws, and developed to the highest perfection the educational, charitable, and religious institutions, which are the pride and glory of our American civilization."

CHAPTER XVIII

CAPTAIN PAYNE AND HIS SUCCESSORS

From the close of the forty-first Congress to the forty-ninth Congress no substantial progress was made in the movement to open Oklahoma to settlement, and the creation of a territorial government. In the meantime the battle was transferred from Washington to the west, where the legions of Payne and Couch were formed to invade the Territory for homestead settlement, under the name of Payne Oklahoma Colony.

In the history of Oklahoma, David L. Payne will always be a conspicuous character. He was aggressive and determined, possessed in unlimited degree a personal fearlessness that enabled him to defy the soldiers of the government, and was an ideal leader for the invasion of the forbidden lands of Oklahoma. More than this, however, history finds it difficult to characterize the man and his cause. Payne, by his friends, has been eulogized and credited with the ideal qualities of the leader of a forlorn hope in a holy cause. By others he has been declared an outlaw, the foremost of a body of rough adventurers, engaged in a desperate enterprise in defiance of the will of the government, and without the redeeming features of a crusade because the objects sought were not the liberation of a people from bondage but the gratification of a lust for land. American history contains several examples of daring men of the Payne type, whom the love of adventure and the peculiar excitement of conquest have driven to undertakings that, stripped of the romantic glamour and enthusiasm of the immediate circumstances, cannot be justified on the grounds of impartial benefit to human liberty or the advancement of civilization and general enlightenment. Not as parallels but as analogous figures in history, we may instance the dramatic episode of Aaron Burr, whom history now judges less of a traitor, than a far-seeing but injudicious expansionist; or the ill-fated filibuster of Captain Walker to Nicaragua. Historical judgment may find that Payne was unconsciously an instrument in achieving a result that, in the wonderful growth and accomplishments of the state of Oklahoma, will redound more and more to his credit and make his name and deeds revered as long as the history of Oklahoma, is known. However, considering his actions with regard to their time and conditions, it must be said that they were contrary to the laws of the nation, that they were not performed in behalf of the greatest good to the greatest number, and that the lands which he sought were not of vital necessity to a suffering people. The public domain during the seventies and eighties was far from exhausted, though it must be admitted that the "Oklahoma country" offered peculiar attractions to intending settlers.[1] In passing judgment on this unique figure of Okla-

[1] Concerning the hunger of American settlers for Indian lands, ex-Commissioner of Indian Affairs Walker said (in 1873): "The eagerness of the average American citizen of the Territories for getting upon Indian lands amounts to a passion. The ruggedest flint hill of the Cherokees or Sioux

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homa history, it must be understood that he based his invasion on grounds of equity and right, even though contrary to the desires of Congress. The lands comprised in the Oklahoma country had been, as already stated, ceded to the government. The government having failed to use the cession for the original purpose, Payne and his supporters contended that this country thus reverted to the public domain, and was subject to settlement under the general land laws. This version was the pretext and logic of the entire Oklahoma movement, and there can be no doubt that many were actuated by sincere belief in the justice of their cause on this ground. Of the life and character of Captain Payne, a sympathetic account has been written by his friend, Sidney Clarke, and is reliable as to essential facts; it is given below:[2]

is sweeter to him than the greenest pasture which lies open to him under the homestead laws of the United States. . . . Now, while it cannot be denied that there is something in all this suggestive of the reckless daring and restless enterprise to which the country owes so much of its present greatness, it is yet certain that such intrusion upon Indian lands is in violation of the faith of the United States and endangers the peace and renders the civilization of tribes and bands thus encroached upon almost hopeless. The government is bound, therefore, in honor and in interest, to provide ample security for the integrity to Indian reservations."

[2] On Thursday evening, November 27, 1884, a man of vigorous frame, of vigorous intellect, and of determined purpose, addressed an assemblage of his fellow citizens at Wellington, Kansas. In earnest words and with sublime faith in the justice of his cause, he plead for the opening of Oklahoma to settlement. It was said at the time that he spoke more fluently than usual and that it was the finest effort he had ever made in the city. For months and years this brave and determined man, this pioneer of civilization, this gallant soldier of the republic, had been hunted down by the civil and military officers of the federal government, though his only crime was his inflexible purpose to seek a home for himself and associates upon the public domain. As often as he had been arrested, so often had he demanded a trial by a jury of his countrymen, and so often was a trial refused. He believed with thousands of others, that there was no law rightly interpreted, which excluded American citizens from this fair land, and every impulse of his noble nature protested against the injustice which dictated the policy of exclusion. In the preceding summer he had been arbitrarily arrested by United States troops, dragged to Fort Smith through storm and heat, his health seriously impaired, and then discharged without even the formality of a warrant of arrest. Many of his followers had been treated with brutal indignities, reflecting everlasting dishonor upon those whose duty it was to administer the law upon the basis of equality and justice to all. Smarting under these monstrous wrongs, and knowing that the government was protecting with the army the cattle syndicates then in full possession of Oklahoma, his address at Wellington was eloquent in protest, comprehensive in argument, unflinching in purpose. No man who heard it doubted his fidelity to duty, or that he would willingly sacrifice his life, if necessary, that others might enter the land of the Fair God. When he had concluded his address, he retired to the Barnard Hotel and slept soundly during the night. He arose early in the morning, ate a hearty breakfast, and was unusually cheerful. Before leaving the table, and while answering a question relating to the status of the Oklahoma lands, he swooned and fell, and in a few brief moments his spirit had passed to the world beyond.

As his body lay in state thousands of his admirers looked upon his face, and at the funeral on the following Sabbath, the procession was the largest ever seen in Wellington, numbering over a thousand people and extending over one mile in length. At the grave, after religious exercises, the Wellington Guards fired a volley in respect to the soldier comrade whose dust they were consigning to the earth. Not only in Kansas, but throughout the country, the death of this man was received with profound regret, and many were the eulogies passed upon his life and character. Public meetings were held in many places to give expression to the grief that was felt by all classes of people at his untimely death.

And who was this man thus conspicuous in the great work of opening Oklahoma to settlement, and who was thus honored and mourned as his life went out in the cause he loved so well? He was none other than Capt. David Lewis Payne, the president of Payne's Oklahoma Colony.

With a courage greater than that which marches unblanched to the field of battle, and with a patience and fortitude that knew no such word as failure, the Payne Oklahoma Colony, numbering

The invasion of Oklahoma by Payne and his colony began in 1879. For five years he remained the active head of the organized movements to take possession of the lands. As remarkable as any other feature of the invasion were the means employed to

15,000, scattered over many states, pursued the great work they had in hand. They knew what it had cost to advance the lines of civilization from Plymouth Rock to the Pacific shore. They fully comprehended the geographical and commercial situation of Oklahoma, the last of the unoccupied portion of the available public domain of the United States. In the vista of the future they discerned a sovereign state peopled by many millions and rich in all the elements of wealth and power. They foresaw that the star of empire was marching with rapid tread to the great central regions of the continent, and that the state they were struggling to found would be one of a galaxy that would ere long control the policy of the nation. They looked down to the southwest some six hundred miles away, to the Mediterranean sea of this western hemisphere, and perceived that in the dawn of the twentieth century it would be dotted with the commerce of the world. They anticipated the construction of a canal connecting the Atlantic with the Pacific, through which the ships of all nations will pass, blotting out the courses heretofore followed through distant seas, and centering in the deep water harbors of the gulf, the products and the exchanges of all the continents and distant peoples.

Such were the conceptions of those who composed the vanguard of civilization here, and Payne and Couch and other heroic spirits were fit leaders of a crusade to accomplish the glorious work.

David Lewis Payne was born near Fairmont, Grant county, Indiana, December 30, 1836. He was the son of a farmer and was reared upon a farm. Like most farmers' sons at that time he did not enjoy the advantages of a liberal education. While yet a boy he had a thirst for knowledge. His intellect was keen, and the ambition which characterized his career in later years, was not unobserved by those who knew him in his boyhood days. He was fond of books, and the family Bible and the pastor's library were diligently read by young Payne long before he reached his majority. While his love of home and friends was strong, his enterprise and love of adventure were greater, and the tide of emigration which swept westward in 1858 brought him to the territory of Kansas, and he became a citizen of Doniphan county. He was at once known for his activity and enterprise and for the interest manifested in the affairs of the territory. He was a free state Democrat, though as subsequent events in his career demonstrated, he was more of a patriot than a partisan. Hence it was, when President Lincoln issued his first call for volunteers in 1861 Payne was among the first to respond. He enlisted as a private in Company F, Fourth Kansas regiment, afterwards consolidated with the Third, and served for the full term of three years. His company was attached to the army of the frontier. In the brilliant engagements of the southwestern campaign, he was conspicuous for his bravery, and was never wanting in his devotion to duty.

On his return home, in 1864, he was elected a member of the state legislature. The war was yet going on. The mighty forces of the Southern Confederacy were yet unchecked. Kansas was largely drained of her men and her resources. The session was an important one. Payne acted well in his part in the duties of legislation. He espoused the cause of the soldiers in the field, and fought with determination and success a proposition to grant bounties for future volunteers, which he regarded as an unjust discrimination against the soldiers who had endured for years, without hope or promise of reward, the dangers and hardships of war. He declared in an eloquent speech that he was ready to re-enlist without bounty, as soon as the legislature adjourned, and he promptly redeemed his promise. True to the generosity of his nature he re-enlisted as a private soldier in the place of a drafted man who had a large family to support. He was enrolled in Company D, Eighth United States Veteran Corps, and becoming a member of the celebrated Hancock Corps, followed its fortunes in the Army of the Potomac till the end of the war.

It was during this period that I became intimately acquainted with Payne. I was able to be of some slight service to him and the comrades of his company and he returned to me the noblest service which one man can to another—the service of a pure and unselfish friendship which lasted until the end of his life. I happened to know that the great war secretary, Edwin M. Stanton, offered him a commission in the regular army, but so great was his attachment to his company that he declined the offer. In his letter of declination he said: "There are only a few of the Kansas boys here, and I wish to stay with them. All the loyal states will be represented at Richmond and the highest favor you can do our Kansas company is to give us a place in the advance as we move on the last stronghold of the rebellion." This request was complied with, and it was the privilege of the gallant Payne to participate in the battles which ended in the fall of the Confederate capital, and the final surrender at Appomattox. With the

convert public opinion in favor of the enterprise and the extent of the influences used to effect the ultimate end.[3] A newspaper, the *Oklahoma War Chief*, was founded by Payne and published to promote the interests of the colony.[4] To illustrate further

instinct of a true soldier, he remained in the army until the term of his enlistment expired in 1866.

In the following winter he was elected sergeant at arms of the Kansas legislature, and in the spring of 1867 he was made postmaster at Fort Leavenworth. Some time after this an Indian outbreak occurred in western Kansas, and he raised a company and was commissioned by Governor Crawford as Captain of Company D, Eighteenth Kansas Cavalry. Four months constituted the term of service. That dreadful disease, cholera, raged during that time, and twenty-seven per cent of the regiment, including losses in battle, was swept away. Payne himself barely recovered from a severe attack. In this terrible ordeal his thought and care were for the men of his company. He was at once a commander and a nurse. He went everywhere among the sick and dying, took the severest cases to his own tent, soothed with his own hands, their dying hours, and paid from his private funds for the care of his men suffering from the contagion. On one occasion, after making a detail to care for the sick, he said, "I must have a few hours rest. Here is $10 each. These men cannot recover. Take good care of them. Pay strict attention to their wants and note all they say. If they have any words for friends at home, be sure and get the name and place and remember their last requests."

It is told of him that when ordered from the fort for active service, two men of his company were left behind hopelessly ill in tents at the post. Payne visited them, and finding one suffering from lack of clothing, pulled off his own flannels and placing them on the sick and dying soldier, remarked: "Cheer up, my boy, don't be discouraged. I hope to see you soon, and there will be oceans of fun ahead on the plains."

The same year found him again in the field in command of Company H, Nineteenth Kansas Volunteer Cavalry, called out to suppress another Indian outbreak. Three days after he received his authority from the governor, his company was full and ready for the field. The regiment was sent to Camp Supply and was attached to the command of General Custer, and participated in the campaign against the hostile Indians in the western part of the then Indian Territory (now Oklahoma) and in the Panhandle of Texas. Custer pursued the hostile Indians for nearly forty days in the midst of a rigorous winter, rescued white prisoners, captured two of the principal chiefs, and brought the savages back to subjection by the vigor of his campaign against them. Payne was always ready for the most daring service. General Custer admired his bravery and the men of his regiment called him "Old Ox Heart," as they gathered around the camp fire and recalled his generous qualities and heroic deeds. It was in this and other expeditions that he gathered extensive information about the country now included within the boundaries of Oklahoma. He comprehended at once the resources and the possibilities of this great expanse of the public domain, and saw that it was the basis on which to found a new American commonweal. His keen observation was always at play, whether scouting in the enemy's country, or in the flash of battle, or in the duties of the camp.

In this campaign, as in all others, he served out the full term of his enlistment and with it ended his military career in the service of the United States. It should be mentioned that in the fall of 1864, Payne commanded a company of Kansas Militia at the battle of Westport, and there, as elsewhere, he was heroic and true. It may be said also, that his terms of service as a federal soldier aggregated five years and six months, a longer period than that of any other volunteer. A communication to him from the War Department in regard to his military service concluded as follows: "It is proper to add that the records of this office show that you served as an enlisted man in Company E, Tenth Kansas Volunteers from August, 1861, to August, 1865; in Company G, Eighth U. S. Volunteers from March, 1865, to March, 1866; as Captain of Company D, Eighteenth Kansas Cavalry from July, 1867, to November, 1867, and as Captain of Company H, Nineteenth Kansas Cavalry from October, 1867, to October, 1869."

While absent in the field, Payne's deputy in the postoffice at Fort Leavenworth became a defaulter, and a new postmaster had been appointed. The bondsmen of Payne were held for the amount, but he sold his property and made good the sum to the last cent. This made him a poor man, but undaunted by adverse fortune, he made his way to Sedgwick county, Kansas, then but sparsely settled, and located in the township which now bears his name. For a time he tried living in a dug-out ten miles distant from any human habitation, exposed to extreme hardships, but always hopeful of the future, and with a courage that never faltered nor failed. The early settlers in Sedgwick county knew him well, and there are many men now living who honor his memory, as they remember how he divided his last pound of flour or his last side

the strenuous and thorough efforts of the Oklahoma promoters, they brought the question to the prominence of a national political issue. J. B. Weaver, in a notable speech in Congress on the Oklahoma question (March 11, 1886), declared that the

of bacon with them in the winter of 1870-71. The first public religious service in Payne township was held at Payne's ranch, and the first Sunday school established. He gave to the school a handsome library.

In the fall of 1871 the people of Sedgwick county elected him to the legislature as a Democrat, though the county was largely Republican. Radical and loyal as he had been in the war, and having shown his mettle to the enemy on many a well fought field, he was liberal and magnanimous in time of peace. Hence it is not strange that he originated a bill providing for the removal of the disabilities of confederate soldiers. His argument in support of the measure was sound, patriotic and conclusive. Among other things, he said: "Kansas was the most radical state during the war. She should now take a position of the most liberal and progressive, proving to the south that we cherish no animosities against her people. We of the north fought for principle and conquered. Let the young state of Kansas now extend the offices of good will and friendship to the people of the late confederate states as the basis of a permanent peace." The bill was finally passed, but not till after a soldier convention was held at Topeka, and the stay-at-home politicians in the legislature made to feel that generosity was better than hatred, and that the arguments of Payne and his fellow soldiers were absolutely conclusive.

In 1872 Payne was nominated by his party for state senator, but the district was overwhelmingly Republican and he was of course defeated. But he made a remarkable canvass, running largely ahead of his ticket. One township gave him every vote with the exception of three, and the township in which he lived gave him a solid vote of 366. After this he spent some time in New Mexico and Colorado in the service of the government, and with his parents in Indiana. He was for a considerable period an officer of the United States house of representatives, concluding his duties as assistant doorkeeper in the winter of 1879, soon after which he returned to Kansas.

As his military and civil experience was largely on the frontier, and his associations among the hardy pioneers of our civilization, it was but natural that he should become an enthusiastic advocate of the homestead principle, and that he should devote his energies to the march of empire into all parts of our public domain. His observations at Washington were valuable. There he obtained facts relating to the conditions existing in the Indian Territory he could not otherwise have obtained. He became convinced that Oklahoma was in reality a part of the public domain, and he at once addressed himself to the work of covering it with homestead settlers with all the ardor of his nature. The earnestness of his labor from the time he commenced the Oklahoma movement to the day of his death; the abuse heaped upon him by a subsidized press, arrogant military officials and by dishonest public officials, and the constant misinterpretation of all the ponts of the controversy, are a part of the history of the time, and would fill a volume to recount.

A little more than sixteen years old, Oklahoma is about to enter the Union as a component part of our confederated system of government. From a condition of vassalage, with all her interests dependent and neglected, she will soon emerge into an invigorating atmosphere where taxation and representation will go hand in hand, when local rights and local pride will not be emasculated and crushed by the selfishness and greed of federal rule, and when the multiplex institutions of one wonderful civilization, so essential to the public prosperity, will be established by our own voice and controlled by our own people. As sure as the green grass will spring up in the returning spring, as sure as the waters flow down from the mountains to the sea, so sure the dreams of Payne and Couch and their comrades will be realized in the full fruition of the state of Oklahoma. And when the temporary prejudices of the hour have passed away the impartial historian will tell the story of their unselfish deeds—of their fidelity to duty—and future generations will rise up and call them blessed.—(From Daily Oklahoman, May 7, 1905.)

[3] One of the interesting documents connected with Payne's invasion is the first proclamation he issued to his followers: Headquarters of the southwest, Wichita, Kas., Jan. 1, 1880.—It is not generally known that there is some fourteen millions of acres of land in Indian Territory belonging to the United States. This immense domain is public land, the property of the United States, and is open to settlement. A reference to the accompanying letter of Colonel Boudinot, himself a Cherokee Indian, explains the status of these lands, and from it the conclusion is irresistible that the people of the United States have an unqualified right to settle upon them when they chose to do so.

To effect a settlement upon these lands is the object of this association, and it proposes to or-

cause of the Oklahoma colonists was the cause of the poor man, the laborer, and thus sought the backing of the labor vote for the measures then pending in Congress. At that time the Knights of Labor organization had begun to exert a considerable political power, and they stood at least partially committed to the Oklahoma opening, numerous petitions being sent to Congress in 1886, to urge the opening of the

ganize a colony of from 5,000 to 10,000 strong, and move upon these lands in one body on or at least one year. Every family or single person about the 15th day of March, 1880.

Each family or person joining this colony must be supplied with means insuring self-support for should have at least one team, a wagon, the necessary agricultural implements, seeds and so forth, to at least the value of $500. Single men without this amount accompanying the colony must go as employees of members of the colony at a stated sum, and shall contract to work at least six months. Brick makers, carpenters and other artisans and mechanics are respectfully requested to join us. Those intending to join the colony will know what is required in a new country, and we would advise them to purchase their supplies at home before leaving. However, on this point they can exercise their own judgment. Every colonist should take a full supply of garden and other seeds, as they go to a country where to plant is to insure a harvest.

When the colony shall have come together, they will perfect their organization by the election of a president, a board of directors and such other officers as they may deem proper to constitute a law-making power until we shall be able to secure the proper national legislation. In the choice of these officers and the perfection of the organization each member of the colony will have a voice and a vote.

No intoxicating liquors of any kind will be allowed in the colony and no camp followers or hangers on or idlers will be allowed to accompany the colony under any pretext whatever. Our laws will be stringent for the preservation of order and good government, and there will be no tardiness in their execution.

The colony will take with it a daily paper, school teachers, etc., and within three days after reaching the place of destination will have schools in full operation. It will start with all the necessary adjuncts of civilization and be fully prepared to maintain them.

A few words regarding the land in question will not be out of place here. There is no finer body of country in the United States. It is well watered, well timbered, abounds in coal and minerals; the Wichita mountains are said to contain gold and silver. For all agricultural purposes, stock, grain, cotton, tobacco and fruit raising it cannot be excelled by any other section of the country between the Atlantic and the Pacific. The climate is nearly like that of California, neither too cold in winter, nor too hot in summer. It is the only part of the public domain now open and within reach of the people this side of the Rocky mountains, worth occupying. All the best lands in Kansas and Nebraska have been taken up and in Colorado no farming can be carried on successfully save by the costly system of irrigation. The land problem is solved, the buffalo is gone, and the Indian must be civilized. The latter feat can only be accomplished by surrounding him with civilized communities that will respect his rights and teach him the best ways of the white man.

In his last message President Hayes called the attention of Congress to the situation of these lands and intimated that if an effort was made by the people to enter upon them the government would be powerless to prevent it without further legislation on the part of Congress. In the present temper of Congress and the country that legislation will not be obtained and therefore no fear need be entertained that the government will prevent the occupancy of these lands by a colony of any respectable number.

[4] The *War Chief* was first established at Wichita, Kansas, in the year 1883, edited by A. W. Harris, and remained there until about April 20th, when it was removed to Geuda Springs, Kansas, remaining under the editorial management of Harris. The *Oklahoma War Chief* was then taken to Arkansas City, Kansas, and edited by W. F. Gordon, May, 1884. From Arkansas City it was moved to Rock Falls, due south of Hunnewell, Kansas, on the Cherokee Strip, where it remained under the management of Col. J. B. Cooper, until August 7th, when, by command of General Hatch, the colony, press and all, was captured and taken with the prisoners to Muskogee. After this the colony purchased another press, and published the *Oklahoma War Chief* at South Haven, Kansas, where Charles Branscome edited it for a while, then turned it over to W. F. Gordon, who published and edited it until Payne's death, on the 27th day of November, 1884, soon after which it was removed to Arkansas City, Kansas. The name *War Chief* was then dropped, and it remained under the ownership of S. J. Zerger until purchased by Smith & Son, June 11, 1885, who, removing it to Caldwell, Kansas, the same week, on the regular

territory. No means were left untried to accomplish the end sought, and against a determined administration opposed by the powerful cattle interest, and defying the armed soldiers sent to eject him, Payne persisted in his designs and again and again entered the forbidden country. He was indomitable to the end of his life. And yet he was not a lone fighter. Powerful influences at Washington were supporting his every move, and undoubtedly it was this assurance that made him dare the military and that prevented the troops from executing the full authority of their orders upon him. A strong public opinion upheld him, and in addition to this the laws applicable to his case lacked a severity of penalty sufficient to deter him permanently from his undertaking.

The insufficiency of existing laws relating to intruders and a demand for immediate authority to remedy the situation in the Indian lands were the subject of a considerable portion of the report of the commissioner of Indian affairs for 1881. The laws governing intrusion at that time were contained in the intercourse act of June 30, 1834, and the act of August 18, 1856, providing that the intruder should first be removed from the reserve, and on return was liable to a fine of $1,000. Most of the intruders being without property that was subject to execution, the result of prosecution was usually a barren judgment, after which the defendant was free to renew his attempts. "A notable illustration of the inadequacy of the law," said the commissioner, "is found in the case of the notorious Captain Payne, of Oklahoma fame, who after repeated attempts at settlement in the Indian Territory, and removal therefrom by the military, was finally arrested July 15, 1880, and taken to Fort Smith, Arkansas, where he was released on bail to appear at the ensuing November term of court. At the subsequent May term of said court a civil suit, in the nature of an action of debt, brought against Payne in the name of the United States, to recover the statutory penalty of $1,000, was tried and judgment rendered against him. It is altogether improbable that the judgment can now be collected from Payne, and the result is that he is at large, organizing another scheme for the invasion of the territory."

To remedy these defects in the law and provide an effective instrument for punishing and preventing intrusion, Congress was asked to amend section 2148 of the Revised Statutes so that trespassers on Indian lands, upon conviction of the first offense, should be liable to a maximum fine of $500 and one year in prison, and for subsequent offenses, the minimum and maximum of penalty were $500 to $1,000 fine and one to two years in prison at hard labor. The bill was submitted to Congress by message from President Arthur in February and December, 1883. The subject was before Congress for several years, the proposed amendment being referred from the interior department almost with each annual message. April 24, 1884, a bill to this purpose passed the senate, but failed to become a law in that session. Again under the Cleveland administration the subject was presented by the commissioner of Indian affairs and Secretary Lamar. The latter, in December, 1885,

publication day, baptized it in its old name, *Oklahoma War Chief*, selected by its founder. The paper was suspended August 12, 1886, in consequence of the failure of Congress to pass the Oklahoma bill and lack of support in general. Samuel Crocker was managing editor in 1885, and in July of that year was arrested at Caldwell by a deputy United States marshal for "seditious conspiracy" and "inciting insurrection and rebellion against the United States government."

in referring to the president the draft of the proposed exclusion law, said: "The embarrassments under which the executive departments of the government have labored in the past, and notably during the fiscal year just closed, and the large expenditures incurred in expelling intruders from the Oklahoma country and other Indian lands, have been mainly due to the inadequacy of appropriate legislation on this subject." In February, 1886, the senate again passed a measure in line with the requests of the executive department, but the bill never became a law. Almost up to the date of the opening of Oklahoma, the exclusion law was urged upon Congress, President Cleveland recommending such a bill in a communication to Congress as late as January, 1888. The detailed movements of Payne and his followers are described in a brief of papers presented to Congress by the war department and in them the story of Payne's and his followers' repeated attempts to July, 1885, is graphically told.[5]

[5] April 26, 1879, the president issued a proclamation warning all evil-disposed persons who had prepared for an organized settlement upon lands known as "Indian Territory" west of the State of Arkansas that they would be speedily removed thence by the agent, according to law, and that, if necessary, the military forces of the United States would be called upon to carry the laws into proper execution.

May 1, 1879, the general of the army directed the commanding general, Division of the Missouri, to instruct the commanding general, Department of the Missouri, to use all his available troops to execute the terms of the president's proclamation, using force only on requisition of, and, when practicable, under personal supervision of, officers of the Indian bureau, or of the several agents for the Indian tribes, pursuant to sections 2147-2149 and 2150, Revised Statutes.

May 2, 1879, the general of the army, in compliance with instructions from the secretary of war of same date, informed the commanding general, Division of the Missouri, that the movement to settle the Indian Territory must be resisted by all the power of the government, civil and military, and advised him to order to certain points, indicated by the secretary of war, small detachments of troops to encamp near the southern border of Kansas to notify all emigrants who should pass into the Indian Territory that they would be acting in violation of law and would be ejected by force if they persisted. Mounted officers should also be posted at Coffeyville to caution emigrants that any attempt to enter and settle in the Territory would result in violent expulsion, etc. All orders were to be executed firmly, but with due consideration to the misguided emigrants, etc.

May 7, 1879, the general of the army informed the commanding general, Division of the Missouri, that emigrants were going into the Indian country from Baxter Springs, and directed him to promptly put a stop to any such unlawful intrusion, and to forcibly eject every emigrant who had gone over the border.

Under these instructions the emigrants were met by the troops and turned back without difficulty. It having become known that preparations were being made in the early part of 1880 by certain parties to invade the Indian Territory, the president again issued a proclamation, under date of February, 1880, warning all persons against doing so, and notifying them that no efforts would be spared by the government to prevent such invasion, and that if necessary the aid of the military forces of the government would be invoked to carry out the laws.

February 25, 1880, General Pope, commanding the Department of the Missouri, requested instructions as to action to be taken by the military under the president's proclamation, and as to what was to be done with intruders arrested, etc.

In reply to the foregoing, General Pope was furnished for his guidance a copy of the secretary of war's letter to the general of the army of March 10, 1880, with its inclosures, viz., letters from the secretary of the interior and commissioner of Indian affairs, giving specific replies to the questions asked by him, and which the secretary of war directed to be carried out. The replies of the commissioner of Indian affairs were to the effect that the military authorities should be untrammeled and free to act as the necessities of the case seem to require. That the Indian bureau has the exclusive authority to grant permission to white men to go into the Indian Territory. That where intruders are arrested they should at once be removed from the Territory, as provided by section 2147 Revised Statutes, and that if they return they are subject to a penalty of $1,000 under section 2148, and should be turned over to the United States marshal at Fort Smith, to be proceeded against according to law.

All property of such intruders, if of such a character as to warrant or allow, to be seized and

The mantle of Payne fell upon W. L. Couch, who having rendered conspicuous service to the cause as a lieutenant, now assumed the role of leader. The activity of the Oklahoma colony was continued with little abatement of enthusiasm until about

turned over to the United States marshal, otherwise it should be destroyed. May 19th, 1880, General Pope reported the capture of Capt. D. L. Payne and band of thirteen intruders into the Indian Territory, and asked what should be done with them.

June 3, he was informed of the decision of the secretary of war that, under the law, the intruders should be taken outside of the Indian Territory and there discharged, with warning not to return.

July 16, 1880, General Pope reported capture of D. L. Payne and party of 22 men, and asked if he should turn this gang over to the United States marshal at Fort Smith for trial, etc.

Thereupon, July 31, General Pope was furnished a copy of interior department letter of July 28, requesting that those of the parties arrested who had been previously removed from the Indian Territory be turned over to the civil authorities under section 2148 Revised Statutes. Under these instructions the lieutenant general reported August 7 that Payne and party left Caldwell, Kansas, on that day for Fort Smith and that those men captured with Payne who did not belong to his first party of invasion had been released.

December 8, 1880, General Pope reported that a purpose existed to invade the Indian Territory, and that many had already been arrested, and requested definite instructions, in case of resistance by the parties to what extent violent measures might be used; if shooting is the order of the department.

December 11, General Sheridan reported that Payne and his two hundred followers had moved west of Caldwell and made no attempt to cross into the Indian Territory, and that the invasion of that Territory might be considered at an end.

May 18, 1882, a copy of interior department letter of May 16, stating that Agent Miles reports Payne with a large party on the march to Oklahoma, was sent to General Sheridan to order the arrest of any trespassers and to report action.

May 23, 1882, General Pope reported capture of Payne and twenty-nine followers, trying to get into Oklahoma. In referring this to the secretary of war, the general of the army recommended that Payne be held a prisoner in the guard-house at Fort Sill, and made to work like other prisoners.

On May 27, General Sheridan reported that Payne and party were about to reach the Kansas line, and that he had instructed General Pope to hold Payne a prisoner, subject to instructions from Washington, and set all others free, but General Pope had released Payne before receipt of the telegram instructing otherwise.

General Pope, in letter of July 15, 1882, stated that Payne and his followers would no doubt again attempt to occupy the Oklahoma district and being arrested and released without consequences to himself, would continue to repeat this, and that these transactions appeared in the nature of a farce, the government being powerless to punish the offenders, etc. Also that Payne had brought suit against him for $25,000 damages for his action as department commander. In forwarding this communication General Sheridan said he hoped some efficient remedy might be adopted to terminate the matter.

The general of the army, in submitting this communication to the secretary of war, advised that the president order Payne and his followers to be excluded by military force, and thus end the farce.

August 28, General Sheridan reports capture of Payne, with six followers; and that they were disarmed and en route to Fort Reno as prisoners.

The general of the army again recommended their imprisonment in the guard-house, to be held until some lawful way of punishing them could be discovered, but the secretary of war returned the communication indorsed, that the annoyance was fully understood, but it would not be prudent to punish them by imprisonment when the law had failed to provide such punishment.

At the request of the interior department, General Pope was instructed to send the prisoners to the United States marshal at Fort Smith without delay.

September 30, 1882, the commanding officer at Fort Reno reported that the prisoners had been turned over to the United States marshal as directed, who discharged them and summoned them to appear at the next term of court. Also states that Payne's followers boasted that as soon as released they would again invade the Territory. In submitting this to the secretary of war, the general of the army said it was now for the president to determine whether the treaties are to be defied by a bold adventurer like Payne, and asked instructions for the protection of the military authorities who have been compelled to incur serious liabilities in the enactment of the varied farce.

During the year of 1883, Payne and his parties were persistent in their efforts to enter and occupy the Oklahoma district, but were readily and promptly ejected by the troops.

1887, at which time the renewed determination of the government to eject the cattlemen and the prospect of an early law opening the territory to settlement caused a respite in the invading movements, though the colony was still maintained and the

May 15, 1884, a preliminary report of information obtained at post of Fort Reno concerning the intrusion of "boomers" into Indian Territory was forwarded from the Department of the Missouri with suggestions as to best means of suppressing the same, etc.

Early in June, 1884, the secretary of war was advised by the secretary of the interior of the existence of wire fences in that part of the Indian Territory called Oklahoma, and in consequence thereof the secretary directed that orders be given to the commanding general of the Department of the Missouri to take immediate steps to remove all such wire fences. This order was promptly communicated through military channels to Colonel Hatch, commanding the military district of Oklahoma, and under date of August 22, 1884, Colonel Hatch reported that the thirty days' notice served upon parties who had erected fences in Oklahoma to remove them having expired, and some not having obeyed the order, those fences not already removed would be removed at once; and in the absence of any further report it is supposed that all fences have been removed.

In his official report Colonel Hatch made the following statement:

"Payne and the men with him who are engaged in locating claims will continue to agitate the opening of this Territory in the same manner as before; not that they really desire to have the country settled, but that they may obtain money from the ignorant people deluded into the purchase of claims and town lots, and from the fees paid on joining what they term the 'Oklahoma Colony.' The payments for surveys, claims, town lots and initiation fees must in the aggregate have already amounted to the neighborhood of $100,000, all of which has been divided among the leaders. Should the country be open to settlers there would be an end to their profits; hence, in my opinion, Payne and his immediate associates do not want it declared open."

June 11, 1884, the commanding general, Department of the Missouri, was, by direction of the secretary of war, instructed to take immediate steps, in accordance with section 2147, Revised Statutes, to remove any intruders from the district of Oklahoma, and to require them to leave the limits of the Indian Territory, etc.

In the meantime various reports were received showing that the number of intruders was steadily increasing, etc.

July 30, 1884, the war department informed the president of the condition of affairs in the Indian Territory in connection with intruders. Whereupon the president, August 2, 1884, directed the secretary of war to employ the military forces to remove the intruders.

August 4, 1884, the commanding general, Division of the Missouri, was directed to act accordingly.

July 31, 1884, the president's proclamation of July 1, 1884, was published to the army in general orders, warning all persons against any attempts to remove to or settle upon lands known as the Oklahoma lands in the Indian Territory, and notifying all such persons who so offend that they will be speedily and forcibly removed therefrom.

August 5, 1884, the assistant adjutant-general, Division of the Missouri, reports that necessary instructions for removal of intruders have been given.

Same date, the interior department requested that telegraphic instructions be given to Colonel Hatch, commanding district of Oklahoma, to move against Payne and the intruders into Indian Territory.

July 31, 1884, the commanding general, Department of the Missouri, inclosed copies of reports relative to removal of intruders, and stated that "troops are now ready to enforce orders," and requested instructions as to where prisoners should be sent, and whether cattlemen should be permitted to remain in the Indian country.

August 5, 1884, Lieut. W. L. Finley, Ninth Cavalry, acting assistant adjutant-general, district of Oklahoma, forwards copy of instructions to Capt. F. T. Bennett, Ninth Cavalry, relative to removal of intruders from the Indian Territory.

August 21, 1884, the commanding general, Division of the Missouri, forwards report of commanding general, Department of the Missouri, indorsing papers in connection with removal of intruders from the Indian Territory, who states that it is probable that the district of Oklahoma can be discontinued in September, except perhaps a troop of cavalry.

August 26, 1884, a report of Capt. P. Cusack, Ninth Cavalry, was forwarded from Division of the Missouri reporting assistance rendered by his command to representative of the Indian agent in arresting intruders found in Cherokee country.

Under date of August 27, 1884, the Missouri Division forwards a copy of report of Capt. Francis Moore, Ninth Cavalry, of his action in assisting the representative of the Indian agent to remove intruders from Rock Falls, known as the headquarters of Payne's Oklahoma colony.

"boomers" remained about the Kansas line until the opening day.

In the meantime, about the time Couch succeeded Payne, the subject of Oklahoma had largely engaged the attention of Congress, and by section 8 of the Indian ap-

August 27, 1884, commanding general, Division of the Missouri, forwards letter from commanding officer, District of Oklahoma, reporting that the 15th of September would probably complete the removal of all intruders. General Schofield at the same time requested instructions as to treatment of unauthorized persons who may enter the Indian Territory.

August 27, 1884, the interior department, in acknowledging receipt of war department letter conveying above information, states that in surrendering the parties for trial the military can only be governed by act of January 6, 1883, and jurisdiction of court will depend in what part of Territory the arrest was made.

August 29, 1884, the department of justice in reply to war department letter of the same date, relative to intruders arrested upon Indian Territory suing out writs of habeas corpus at Fort Smith, states that if state authority issue a writ for one in custody it is the duty of the custodian to make due return, but in any event to continue to execute the authority under which he holds the prisoner, even to the extent of not taking or suffering him to be taken before the state authority, etc.

August 30, 1884, the department of justice, in reply to war department letter respecting habeas corpus writs for trespassers upon Indian lands, states that either the United States courts in Kansas or Arkansas are competent to give the law as to their jurisdiction until question shall have been carried to supreme court.

September 3, 1884, the commanding general, Division of the Missouri, forwards copy of letter from commanding general, district of Oklahoma, who reports troops under Captain Carroll, Ninth Cavalry, engaged in removing fences inclosing pastures in Oklahoma proper, where orders to remove were not complied with, etc.

Under date of September 17, 1884, the commanding general, Division of the Missouri, forwards report of Colonel Hatch, that nearly all intruders have been removed from the Cherokee Strip, and that by September 15 he expects to have Oklahoma clear of all intruders and fences. Colonel Hatch also suggests places for camps in his district required to prevent intrusion of unauthorized persons during the winter, etc.

On the 26th of September, 1884, a letter was written to the commanding general, Division of the Missouri, approving establishment of camps, etc.

September 29, a letter was addressed to the secretary of the interior by the war department for suggestions as to treatment of intruders and aid of interior department in preventing organized movements into the Indian Territory.

September 18, 1884, the commanding general, Division of the Missouri, telegraphs that Payne and other prisoners were turned over to United States marshal at Fort Smith, Ark., September 8.

September 17, 1884, General Augur telegraphed that Payne with followers would probably enter the Indian Territory again on the following day, and, in case of the arrest on the Cherokee Strip, requesting instructions as to whom they should be turned over to. Whereupon, by direction of the secretary of war, a map showing jurisdiction of the United States district courts was forwarded to commanding general, Division of the Missouri, with instructions to turn over the intruders when arrested to the United States court of the district of which the locality where the offense was committed is a part.

Under date of September 11, 1884, the governor of Kansas indorsed to the president copy of petition received by him from Capt. D. L. Payne and seven others in custody of military authorities for attempting to settle upon Indian lands, and asks that these parties be turned over to the civil authorities at Wichita, Kans., for trial.

The secretary of war, in letter of September 20, replied: "I am officially informed that Payne and the other persons were on the 8th September (three days before the date of your letter) turned over by the military authorities to the United States marshal at Fort Smith, Ark., and have not since been in military custody"; also that he was advised of another contemplated intrusion by Payne and his followers on the 18th, and that instructions had been requested as to the proper place of their delivery upon being again arrested, and that the department will endeavor to prepare such instructions to the military authorities as will insure the turning over of the offenders to the proper court for punishment.

On the 9th October, 1884, the commanding general, Division of the Missouri, forwarded a report of Colonel Hatch to the effect that Payne party proposes to re-enter Oklahoma about October 9th, and that he thought it best to retain Troop K, Ninth Cavalry, until he could send a troop to relieve it at Camp Russell, I. T.

Instructions were given by the commanding general, Department of the Missouri, to pick up party going to select town site, etc.

October 12, 1884, Colonel Hatch requested that

propriation act, approved March 3, 1885 (23 Stats. at Large, p. 384), the president was "authorized to open negotiations with the Creeks, Seminoles and Cherokees for the purpose of opening to settlement under the homestead laws the unassigned lands

an agent of the Indian Department be stationed near the camp of the troops at Caldwell, Kans., for the purpose of removal of intruders; and if this could not be done that some one be appointed to act in that capacity.

The commanding general, Division of the Missouri, forwards copy of a letter from Colonel Hatch reporting that on the 20th instant he came up with Lieut. H. H. Wright, Ninth Cavalry, who had under guard a party of intruders, 24 wagons in all, who are being escorted out of the Territory.

November 13, commanding general, Division of the Missouri, forwards letter from Colonel Hatch reporting discontinuance of district of Oklahoma, and disposition of stores and supplies, and that he is about to proceed to Fort Riley, Kans.

November 14, the interior department, in acknowledging receipt of letter relative to employment of an Indian agent to co-operate with troops in the Cherokee Strip, says there are no funds available for such purposes.

December 27, the commanding general, Division of the Missouri, telegraphs that a large body of armed men have again intruded into the Indian Territory and refused to surrender to the detachment sent to intercept them, and that he has given instructions to the commanding general, Department of the Missouri, to send a sufficient force to expel them. Asks at the same time if any other action is desired by the war department.

On the same day a telegram was sent to General Schofield acknowledging the receipt of his dispatch and informing him that the secretary of war approves of his action.

December 30, 1884, a dispatch was received from commanding general, Division of the Missouri, stating that General Augur desires the Indian Department to send an agent to designate intruders, and to take charge of property seized. Also asks whether leaders (hunters) shall be arrested and turned over to civil authorities; his present orders being limited to expelling intruders.

December 31, a copy of the report of Maj. Thomas Dewees, Ninth Cavalry, commanding Fort Reno, I. T., was received giving number of arrests made and parties escorted out of the district of Oklahoma, by Troop I, Ninth Cavalry, October 18 and 20, and December 1, 2, 3, 4 and 7.

January 5, 1885, the commanding general, Division of the Missouri, forwards a report of Colonel Hatch of affairs in Indian Territory in connection with movement of troops ordered there to eject the intruders, which places the number of intruders now there at four hundred, with very few women and children, who are mostly living in small excavations in sand hills on left bank of Cimarron river, near Cedar Creek. These people, Colonel Hatch says, are there generally upon advice of leaders or lawyers, who inform them that they have a lawful right to resist by arms any attempt on the part of the government to remove them, etc.

January 7, a copy of the report of Lieut. M. W. Day, Ninth Cavalry, was received from headquarters Division of the Missouri, from which it appears that when he arrived at Stillwater with his detachment of troops (where a large party of the intruders are encamped) and attempted to arrest Mr. Couch, their leader, he was confronted by about 200 men armed with double-barreled shotguns and Winchester rifles. They refused to submit to an arrest without a resort to arms, though Lieutenant Day had about 80 men on a skirmish line. As the intruders were densely massed, Lieutenant Day hesitated to give the command to fire, as the slaughter would no doubt have been great.

Lieutenant Day further states that he has done all he can to make the arrest without resorting to arms, and requests to be informed if he is to treat this body of men as insurgents, and after calling upon them to give up their arms and submit to arrest to open fire upon them. If he is compelled to arrest them without firing on them, he will require reinforcements.

January 13, the lieutenant-general telegraphed to General Augur requesting him immediately to send all official information in his possession regarding the attitude of the invaders towards the troops in the Indian Territory, the exact number of troops sent to carry out the provisions of the president's proclamation, and other orders directing the removal of the intruders. Also requested General Augur to communicate with Colonel Hatch by telegraph requiring full particulars, and to send him, if necessary, additional troops to accomplish the purpose in view.

January 14, 1885, General Augur informed Lieutenant-General Sheridan by telegraph that Colonel Hatch has orders to remove the intruders from Indian Territory, without violence, if possible. He will have seven companies of cavalry in hand and one company of infantry to occupy Camp Russell, 9 miles from the camp of the intruders. General Augur believes this force sufficient for present emergency. The intruders num-

in said Indian Territory ceded by them respectively to the United States by the several treaties of August eleventh, eighteen hundred and sixty-six, March twenty-first, eighteen hundred and sixty-six, and July nineteenth, eighteen hundred and sixty-six; and for that purpose the sum of five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any

ber about 250 men and a few women. Couch, their leader, is reported to be a fanatic who believes himself in the right and is willing to risk a collision, as likely to invite public sympathy and compel favorable congressional action. Colonel Hatch thinks Couch will resist arrest and there will be a collision.

January 15, 1885, General Augur telegraphs that Colonel Hatch is beyond reach of telegraph; that intruders claim to be advised by lawyers and some members of Congress to resist removal; that Colonel Hatch will have about 350 cavalry, and that the troops from Fort Reno were delayed by a severe snow storm.

On the 16th of January General Augur, in reply to a telegram of the same date on the subject, reports that Camp Russell is situated on the Cimarron, nearly opposite the mouth of Ephraim creek, and the principal camp of the intruders is reported to be about 15 miles northeast of Camp Russell on the Stillwater.

January 10, General Augur forwards copy of a letter from Col. Edward Hatch, Ninth Cavalry, who invites attention to the necessity of urging congressional action in regard to lands in Oklahoma, which he says should either be declared open for settlement or laws should be enacted enjoining penalties for invasion of the Territory; else the government will be compelled to keep a large force at great expense in Oklahoma, to guard every thoroughfare, river and water-course during the coming year, as, granting that the force now moving to expel the armed intruders is ample to enforce the orders for their removal, it will be entirely insufficient to arrest the movement sure to take place in the spring from the hordes coming from Kansas, Missouri and Arkansas; an estimate from reliable sources placing the number who will attempt the settlement of Indian lands in the Territory at not less than twenty thousand people, etc.

This report is also accompanied by a detailed report from Lieutenant Day, Ninth Cavalry, showing his attempts to induce a peaceable surrender of the intruders located at Stillwater, Ind. T.

January 19, General Augur reports by telegraph the whereabouts of Colonel Hatch and the troops in the Indian Territory; that the number of boomers has increased to 375 and is constantly increasing, and that there is no doubt they will fight. Should this be the case and they fire upon the troops, desires to know whether they are to be treated as public enemies and to be captured or killed, so that there can be no chance of a misunderstanding as to the orders on this point.

January 20, the lieutenant-general, in accordance with instructions of the secretary of war, informed General Augur, by telegraph, that the president's orders for the removal from the Indian Territory of the intruders therein were to be enforced. That it was hoped that this might be done without an armed conflict, but that the responsibility for any bloodshed must rest upon those who do not accept the warning of the proclamation of the president of July 1, 1884, and attempt with arms to resist the troops ordered to compel their removal. Also, that the military force should be increased, so that all intruders might see the hopelessness of resistance. Following the communication of these instructions, the lieutenant-general directed General Augur to immediately reinforce Colonel Hatch by the remaining companies of the Ninth Cavalry, and also to send him reinforcements from the Tenth, Twentieth, and Twenty-second Regiments of Infantry until the force he has now in hand shall be increased by 300 additional men.

January 21, General Augur acknowledges receipt of above instructions (of which he has furnished Colonel Hatch a copy), and reports that the additional troops will be sent to Caldwell as soon as transportation and supplies are ready for them, but that on account of the severe weather and snow it will be difficult to get troops from Elliott, and supplies. Desires to know if he can send troops from Fort Leavenworth providing it will not interfere with the school.

By telegram of January 21 from this office, General Augur was authorized to send troops from Fort Leavenworth, providing it did not interfere with the school.

July 23, the commanding general, Division of the Missouri, repeats dispatch for the commanding general, Department of the Missouri, communicating information received from Colonel Hatch that Couch, the leader of the boomers, has notified him that they will fight; that their strength is 400, and that the United States troops are moving into position to cut off supplies and stop new arrivals.

(Sen. Exec. Doc. No. 50, 48th Cong., 2d Sess.)

money in the treasury not otherwise appropriated; his action hereunder to be reported to Congress."

Notwithstanding this legislation the colonists still maintained a defiant attitude in camp at Arkansas City, and threatened to re-enter the Territory in largely increased numbers at an early date. An impression seemed to prevail amongst them that the proclamation issued by President Arthur, July 1, 1884, and his subsequent order of July 31, 1884, directing the employment of the military in enforcing the same, had become inoperative with the close of his administration. To counteract this idea, President Cleveland, on the 13th of March, 1885, issued a proclamation substantially to the same effect as those of his predecessors, declaring the determination of the government to maintain the integrity of the treaties entered into with the Indian tribes, and to enforce obedience to the laws of the United States.

The immediate effect of this proclamation, as reported by the commanding general, was to reduce the numbers of the Couch colony, many of whom quietly dispersed and returned to their homes. A large number, however, estimated at from six to eight hundred men, all well armed, still remained in camp, who openly avowed their intention to disregard the proclamation and force their way into the Territory. Meetings of the colonists were held, and resolutions passed expressive of their surprise and dissatisfaction at the course taken by the government, and demanding of the president an explanation of the laws and treaties governing the Oklahoma lands under which it was claimed they were still Indian lands. A delegation in behalf of the colonists waited on the president and secretary of the interior, with a view to securing some modification of the proclamation whereby they might be permitted temporarily to enter the Territory pending the negotiations authorized by Congress, but they were informed that under no circumstances would any settlements be permitted in the Indian Territory until the negotiations with the Indian tribes had been had and authority from Congress obtained.

Upon the return of the delegation to Arkansas City the colonists (April 23) passed resolutions agreeing to await the result of negotiations, and adjourned to meet at the call of their leader. Those having homes returned to them, about two hundred and fifty remaining in camp, near Caldwell, on the Kansas border. The report of the Indian commissioner for 1885 with reference to the colonists concluded: "Recent advices received in this department indicating an intention on the part of the colonists to disband and peacefully await further official action in reference to the lands in question, the United States district attorney has been instructed by the Department of Justice to dismiss the suits before referred to if he is satisfied they have broken camp and retired from the border and relinquished their project of invasion."

In the latter part of October and beginning of November, 1885 (Report of commissioner of Indian affairs, 1886, p. XLV) a large body of intruders, under the leadership of Couch, again entered the Territory, with the avowed object of settlement on the coveted lands, camping on the banks of the Canadian, near Council Grove, whence they were again removed across the line by the military, under the president's proclamation of March 13, 1885.

The president having on July 23, 1885, issued a proclamation declaring the leases made by the Cheyenne and Arapahoe In-

dians void, and directing the removal of the alleged lessees, their cattle, and their employes from the reservation within a specified time, thousands of cattle were driven to graze on the Oklahoma lands. Upon the recommendation of the interior department (December 3, 1885) measures were at once taken by the war department which resulted in the supposed clearance of all cattle and intruders from Oklahoma. (See Sidney Clarke's statements in previous chapter.) Subsequently, however, in the early spring of the present year, it was ascertained that there were still large numbers of cattle on the Oklahoma lands, and these also were removed by the military.

In the summer of 1885 Attorney General Garland, at the request of President Cleveland, delivered an opinion affecting the cattle leases in Indian Territory. This opinion had an important bearing on the settlement of the immediate issues between the various interests in contention over the land of Oklahoma. The following extracts from the opinion will indicate its scope.

"Our government has ever claimed the right and . . . its settled policy has been to regulate and control the alienation or other disposition by the Indian nations or tribes of their lands." An act of the confederation congress in 1783 forbade all persons "from making settlements on lands inhabited by the Indians without the limits or jurisdiction of any particular state." By act of Congress July 22, 1790, no lands could be sold by Indians within the United States except under "some public treaty held under the authority of the United States." These restrictions were reinforced by subsequent acts dated March 1, 1793; May 19, 1796; March 3, 1799, and March 30, 1802.

The above provisions applied to individual Indians as well as to tribes or nations, but by act of June 30, 1834, it was limited to the tribe or nation. Section 2116 of the revised statutes in force at the time of Attorney-General Garland's ruling read: "No purchase, grant, lease or other conveyance of lands or any title or claim thereto from an Indian nation or tribe of Indians shall be of any validity in law or equity unless the same be made by treaty or the constitution."

The attorney general held that this law was comprehensive, that whether the Indian title was in fee simple or right of occupation merely, was immaterial. Therefore a lease of land for grazing purposes was subject to the statute and "one who enters with cattle or other livestock upon an Indian reservation under a lease of that description made in violation of the statutes is an intruder and may be removed." Mr. Garland then cites the act of Congress, February 19, 1875, authorizing the Seneca nation to lease certain lands in New York state, as proof that some such legislative action is necessary to confirm all leases, and, without it, the leases are not valid.

This opinion was at once interpreted by the Oklahoma boomers as favorable to their cause, in that it denied the validity of the cattlemen's leases, although it is difficult to conceive how they could infer that, for this reason, the right of the intending settlers was in any way strengthened, since the attorney general declared explicitly that all intruders within the meaning of existing statutes could claim no protection nor permanence of occupation unless a specific law authorized such intrusion of an Indian reservation.

When the act of March 3, 1885, was passed by Congress authorizing the president to open negotiations with the Creeks, Seminoles and Cherokees for the purpose

of opening to settlement, under the homestead laws, the unassigned portions of Oklahoma and the Cherokee Strip, an Indian international convention was called by Hon. D. W. Bushyhead. It met June 15, 1885, at Eufaula, with the following delegates present:

Choctaws.—Delegates: Ed. McCurtain, chief of Choctaws; A. Carney, Julius Folsom, Wesley Anderson, Meah-hut-tubbee, J. S. Standley.

Chickasaws—Delegates: Geo. W. Harkins, B. W. Carter.

Cherokees.—Delegates: R. Bunch, W. P. Ross, L. B. Bell, Frog Sixkiller, S. H. Benge, Daniel Redbird, Adam Feelin, John Sevier.

Creeks.—Delegates: Ward Coachman, G. W. Grayson, Jno. R. Moore, Wm. McCombs, Coweta Micco, Efa Emarthlar.

Seminoles.—Delegates: John Jumper, James Factor, Thos. McGeisey.

The object of the convention, after organization, was shown by Mr. Bushyhead's letter, to wit:

Tahlequah, June 12, 1885.

To Messrs. R. Bunch, Wm. P. Ross, L. B. Bell, Frog Sixkiller, S. H. Benge, D. Redbird, Adam Feelin, and John Sevier.

Gentlemen:—As already advised, you have been appointed to represent the Cherokee Nation at a conference to be held at Eufaula, Muscogee Nation, I. T., on the 15th instant, between the representatives of the Muscogee, Seminole, Choctaw, Chickasaw and Cherokee nations concerning matters of importance pertaining to their general interests.

By the act of Congress approved March 3, 1885, commonly known as the "Indian appropriation bill," it was provided "that the president is hereby authorized to open negotiations with the Creeks, Seminoles, and Cherokees for the purpose of opening to settlement under the homestead laws the unassigned lands in said Indian Territory ceded by them respectively to the United States by the several treaties of August 11, 1866, March 21, 1866, and July 19, 1866." In view of this legislation the chief of the Seminoles invited a meeting of the parties in interest for the purpose of an interchange of views on the question thus presented, and as the result the conference to which you have been appointed has been called at Eufaula.

You will readily perceive that the proposal to open to settlement, under the homestead laws of the United States, the lands set apart by the Creeks and Cherokees for the settlement of friendly Indians presents questions of the gravest import, not only to the Seminoles, Creeks and Cherokees, but to all Indians now settled within the limits of the Indian Territory, and which calls for their most serious consideration and harmonious action. They involve not only a cession of large tracts of valuable lands, to which, in the case of the Cherokee Nation, the title remains unimpaired, but a thorough, sweeping, and radical change in the political relations between the Indians and the government of the United States.

To the consideration of this subject, and of all points of interest springing therefrom, you are expected to give your serious and mature consideration, and endeavor to agree upon some common ground of action upon which the members of the conference can stand united in sentiment and effort to meet the issues to be presented to them. What that ground shall be is left to your wisdom to determine; but I am convinced that the sentiment and conviction of the people will regard any movement looking to a cession of our lands for the purpose authorized by Congress, or the disturbance of the integrity of the Indian Territory, or the surrender of any rights of soil or self-government now enjoyed under the guarantees of their treaties with the United States, with disapproval and opposition.

I suggest, therefore, that your efforts in this conference be addressed directly to obtaining such action as may seem best calculated to preserve our rights of soil and self-government under our treaties, to strengthen the guarantees of our Indian brothers, to perpetuate the existence of the Indian Territory unimpaired under the laws and treaties of the United States, and to unite more intimately the relations now existing between the Indian people, so as to secure more united and harmonious councils in the advancement of their common interests and the more efficient enforcement of law.

I need hardly add that any measure adopted or policy agreed upon by the conference will require to be reported in full to this department for its approval and reference to the national council for final action.

Very respectfully,
D. W. Bushyhead,
Principal Chief.

The next day, after consultation, the following resolutions, with one dissenting voice, were adopted, to wit:

. . . Whereas, The opening of said lands to homestead settlement would be in conflict with the uniform policy of the government in reference to the Indians of this Territory, and its solemn pledges that the lands of the Indian Territory shall not, in all time to come, be included within the limits of any state or territory without their consent; and

Whereas, The opening of said lands would necessarily involve the establishment of a Territory of the United States within the limits of the Indian Territory in violation of said treaties; therefore, be it

Resolved, By the representatives of the Creeks, Seminoles, Cherokees, Choctaws and Chickasaws in convention assembled, That in their opinion the negotiations authorized by the act of Congress of March 3, 1885, are incompatible with the rights, interests, and future security of the people of the Indian Territory, and should not be entered into; and to secure the integrity of the Territory as Indian country, and the interest of the several tribes therein, we hereby pledge ourselves and our respective governments.

The sentiment of the Cherokee Nation respecting the establishment of a territorial government over the outlet or the inclusion of that portion of their country in the proposed Oklahoma was expressed in the instruction to the Cherokee delegation sent to Washington in 1872. By act of the national council this delegation was instructed "to protest against and oppose by all proper means the passage through Congress of any bill for the establishment of a territorial government of the United States over the Cherokee country and people, or the adoption of any measure that will interfere in any manner with the right of soil and self-government guaranteed to the Cherokee Nation and people by the provisions of treaties now existing between the United States and the Cherokee Nation."

Year after year the annual delegation to Washington received as part of its instructions this protest, with only an occasional variation in the wording. As the pressure for the opening of the Indian country became stronger, the instructions became more specific, indicating the course of events that were tending to break down the barriers around the Indian country. Thus, in 1882, besides the above paragraph, the delegates were to "oppose any measure or act that would throw the Cherokee Nation open or expose it to white settlement; and they are further instructed to resist all attempts by bill in Congress to allot lands in severalty . . . and they are further instructed to aid the other nations and smaller tribes in resisting encroachments among them, and in thus introducing disturbing elements among them, thus destroying the security and hindering the progress of the nations and tribes of the Indian Territory."

In 1888, the Oklahoma question having become acute, the following paragraph was added to the general instructions that had continued for the preceding years: "Whereas the preceding delegation and the published proceedings of Congress have informed the people of the Cherokee Nation and their representatives in national council now convened that a certain 'bill' is now pending in the house of representatives entitled 'An act to provide for the organization of the Territory of Oklahoma, and for other purposes,' by which bill it is proposed to create a United States territory so entitled and to include more than one-half of the Cherokee domain within the described limits thereof, and to sell the lands contained in said tract in a manner and at a price and at times fixed in said 'bill': provided, that the Cherokee Nation shall, after the passage by said bill by Congress, signify their assent to the organization of said territory upon the terms set forth. The delegation are authorized and required to convey to Congress and to the president of the United States the unanimous dissent of the national council and the people of the Cherokee Nation to the organization of

said territory so far as the organization thereof proposes to affect any part of the domain embraced and described in treaty and patent as conveyed to this nation and which yet belongs to said nation; and further, that they, the Cherokee people, are unanimously opposed to any extinguishment of their rights, jurisdiction, possession and ownership over any portion of their remaining country by the United States government without their consent having first been obtained in accordance with law and treaty."

During the Oklahoma agitation a plan was proposed to remove the Indians from the reservations created by executive order into the Oklahoma country, thus allowing such reservations to be thrown open to settlement. This was the subject of an extended trip of investigation by Prof. C. C. Painter, representing the Indian Rights Association, and also, unofficially, the president and secretary of interior. The theory that no treaty stood in the way of opening the executive order reservations, while the Creeks and Seminoles still had treaty rights in Oklahoma, had no valid reasons to support it, reported Prof. Painter. As an instance, the Wichitas lived on a reservation by unratified treaty, and since the treaty had never been ratified by the senate there could be no legal obstacle to their removal. "The fact is," asserts Prof. Painter, "these Indians claim always to have been the owners of this land, not only what they occupy, but a large body occupied in part by the Kiowas and Comanches, etc. . . . Their title to it has never been extinguished. So there are virtual legal and treaty obligations in the way of this removal fully as sacred as those which prevent us from opening Oklahoma, and certainly the moral obligations are even greater. These people, especially the Wichitas, have taken deep root in these lands, have built their homes, and opened up farms. This is being done with most encouraging rapidity by the Cheyennes, Arapahoes and Comanches. It would be a cruel outrage to force them to remove; it would be a disastrous step backward to induce them to go. The lands to which they would remove are not so good as those now occupied; they are bitterly opposed to the plan, and it ought not to be attempted." And then the report continues with a definite recommendation that "Oklahoma ought to be opened up; it is not needed by the Indians; it cannot be kept empty and ought not to be so kept; but if treaty obligations and moral obligations must be violated, it is better to do so with reference to vacant lands than with reference to established homes. Steps ought to be taken at once to gain the consent of the Creeks and Seminoles to throw this land open to settlement, and it could doubtless be done if a fair price above thirty cents per acre which we have paid for it for the settlement of Indians upon it was offered for it."

CHAPTER XIX

NO MAN'S LAND AND "CIMARRON TERRITORY"

As an episode in the general agitation for the opening of Oklahoma, the settlement of "No Man's Land" and the attempt to organize a territorial government for that country form an interesting phase of Oklahoma's history. In Chapter III the origin of the anomalous pieces of territory known as "No Man's Land" was described, and it was stated that the contention of the Cherokees that this land was a part of the Outlet was denied by the United States courts. This left it open to settlement as a part of the public domain, and it happened that in the general movement of population into the southwest during the eighties these vacant lands were occupied, and their fortunes thus involved in the Oklahoma question.

The story is best told in the following account published in the *Daily Oklahoman* (May 7, 1905):

In 1880, settlers from Kansas and other states looking for new homes, went to "No Man's Land" and the first settlement was established at Beaver City, now the seat of Beaver county. The population increased rapidly, farms were cultivated and towns established. In the absence of law, even by the federal government, the people by common consent made certain agreements for the protection of property, which, to their credit, were observed almost as faithfully as if enforced by regular courts. By the spring of 1886 the population had reached 3,000. The people determined to organize a government of their own, and the Respective Claim board, an organization of citizens to protect landlords, divided "No Man's Land" into three council and six representative districts. An election was held and the legislature met at Beaver City, March 4, 1887. Dr. O. G. Chase was president of the council and Merritt Magan secretary. A bill was passed creating the provisional government of Cimarron Territory, and the legislature ordered an election to be held the first Monday in November, 1887, to elect a delegate to Congress, a governor, a secretary, nine councilmen and fourteen representatives. Dr. Chase was elected delegate, J. R. Linley governor, and Thomas P. Braidwood secretary. John Dale, a rival candidate for delegate, contested Chase's election, but Chase got the certificate and went to Washington in December, 1887. He was introduced on the floor of the house by William M. Springer, of Illinois. Chase was not recognized, nor was Dale's contest. On March 3, 1887, a bill attaching "No Man's Land" to Kansas, for judicial purposes, passed both houses of Congress, but President Cleveland was induced by Sidney Clarke, then living in Kansas, not to sign it, as the change might be detrimental to the opening of Oklahoma.

The commissioner of the land office, in a letter January 29, 1886, had recommended the abolition of the anomalous condition of the strip by the passage of the house bill

then in committee "to extend the laws of the United States over certain unorganized territory south of Kansas."

In February, 1888, when the senate committee (Sen. Doc. No. 353, 1st Sess., 50th Cong.) recommended the passage of a bill "to extend the southern and western boundaries of the state of Kansas and for other purposes," it supported its recommendation by the following report of the conditions in the affected territory: "Within the past few years there has been a large immigration to this section, and its lands, which are fertile, have been largely occupied. Flourishing towns have also grown up. This portion of the public domain is without laws, except such as have been enacted by the settlers; and while the great majority of the settlers are industrious, thrifty and moral, many criminals and outlaws have taken up their abode there, and made frequent predatory excursions into the states of Kansas and Texas." Concluding with the recommendation that, of all the plans proposed for the organization of the country, the most meritorious to be that of attaching this unorganized part of the public domain of Kansas. The meridian and township lines of the strip were surveyed previous to 1886, pursuant to an act of Congress March 3, 1881. In his report for 1884 the commissioner of the land office says: "Exterior surveys of the public land strip west of the Indian Territory have been made, and the district is rapidly filling up with settlers and stockmen, between whom conflicts have occurred for the possession of the country. A considerable portion of the land is reported illegally fenced. I have recommended the attachment of this strip to the adjoining district of Kansas, and it is desirable that early action be taken in order that the lands may be opened to legal entry."

The Cimarron delegate, Chase, returned home after the adjournment of Congress, and the legislature of Cimarron Territory in the spring of that year enacted a number of laws which proved inoperative for lack of funds and power to enforce them. An attempt to collect taxes levied on herds belonging to cattlemen was met with Winchesters, and the significant invitation "Go ahead and try to get the money if you dare." Chase went to Washington again in the winter of 1888-9 in hopes that he might be seated and draw his salary, but he failed in both. Then he began lobbying for the passage of the bill opening Oklahoma for settlement.

The first municipal government in what is now Oklahoma was organized in Beaver City, in the election of town officers in October, 1887. The officers were: J. Thomas, mayor; W. B. Ogden, clerk; Merritt Magan, attorney; Addison Mundell, marshal; John H. Alley, Thomas P. Braidwood, John Garvey and J. A. Overstreet, councilmen.

The status of "No Man's Land" in 1889, and the attitude of many of its citizens toward the proposition to include their country under the same territorial government with Oklahoma, are described in the report of the commissioner of the general land office for 1889.

"The opening of Oklahoma has increased the anxiety of the inhabitants of the narrow strip of public land just west of the Indian Territory, and commonly known as 'No Man's Land,' for some legislation in their behalf. I am in receipt of numerous petitions and memorials on the subject, and I desire to urge as strongly as I can the importance of calling the attention of Congress to this matter.

"The following petition, signed by Thomas P. Braidwood and eighty-nine others and addressed to the president,

states the condition of that part of the country so clearly that I submit it, with my full indorsement:

Beaver, Public Land Strip,
Indian Territory, May 22, 1889.

To His Excellency Hon. Benj. Harrison, President United States of America, Washington, D. C.

We, the undersigned citizens of the Public Land Strip, commonly called "No Man's Land," being that portion of land lying between the Indian Territory on the east, New Mexico on the west, Kansas and Colorado on the north, and Texas on the south, and containing about 3,600,000 acres, would respectfully state:

That we have a population of about 15,000, [†] the most of whom are law-loving and law-abiding people. That we have villages and towns building up, schools and churches in operation, and farmers tilling the soil and creating homes for themselves and their posterity, but it is all done under "squatters' rights" only, and we labor at great disadvantages. The money appropriated by Congress a few years ago to survey the country was exhausted before the survey was completed, and we are without land laws. We should be placed on at least an equal footing with other portions of the public domain under the law. Oklahoma, as an instance, containing 1,800,000 acres, only half our size, was recently opened up with these benefits. We stand in urgent need of the extension of the land laws over our land, and land offices established, so that we may begin title to our homes. We only ask what is our right and justly due us as American citizens.

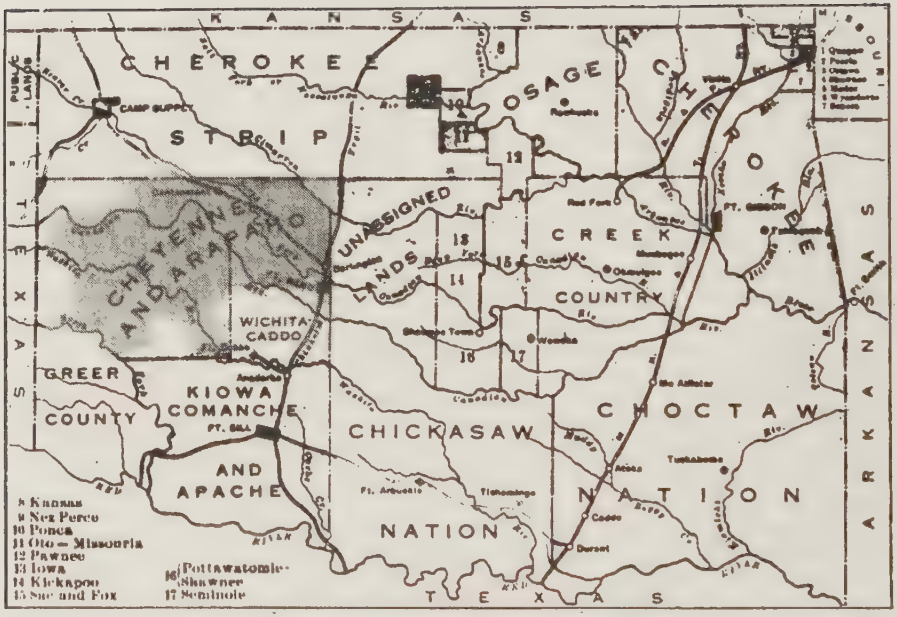
Therefore we earnestly request that in your call for an extra session of Congress, if you should in your wisdom call one, you embody our necessities as a part of the reasons for the extra session, so that these points will be considered. If there should be no extra session of Congress, we pray that in your message to the next regular session you call attention to and impress upon that body the urgent need we have of the survey being completed, and land district established, and land offices located, for all of which we shall be profoundly grateful.

"This petition is indorsed by Hon. P. B. Plumb, chairman of the senate committee of public lands, as follows:

These people should have the laws extended over their country. This would have been done long since but for the action of those who represented them at Washington, who said nothing was desired except in connection with Oklahoma.

"I call attention to the fact that before these lands can be opened to entry the survey must be completed. The township and range lines have almost all been run, and they are marked by substantial iron posts placed every two miles, but the section lines have not been established. Certainly a tract of agricultural land on which there are 15,000 settlers should be surveyed. A careful estimate of the cost of completing the survey of this strip shows that $50,000 will amply suffice. I have therefore submitted an estimate for a special appropriation of that sum for this purpose, to be immediately available, and not to be included in the general appropriation for surveying public lands, as this work was not taken into consideration in making the estimate for such general appropriation."

The outcome of the agitation was that in 1890 the public land strip was included in the territory of Oklahoma, and thenceforth the political interests of the country have been those of Oklahoma.



INDIAN TERRITORY, 1875.

CHAPTER XX

OPENING OF OKLAHOMA

The years of agitation in Congress and the public press, the constant and increasing pressure of white settlement on all sides, and the frequent invasion of organized bands of boomers, finally brought about the opening of Oklahoma to settlement in the early part of 1889.

In the closing days of the fiftieth Congress, on March 1st, 1889, Congress ratified and accepted the cession and agreement made with the Creek Nation in the preceding January,[1] by which all the western half of the territory originally granted to this nation was ceded to the United States. By the same act, these lands were declared a part of the public domain, and to be opened to entry in quantities not exceeding 160 acres to each homestead claimant. Congress was to fix a date upon which these lands would be open to settlement, and no entry before that time should be permitted.

The day following the ratification of the Creek agreement, in the appropriation bill

[1] The cession of these lands was concluded at Washington, the Creek delegates being Pleasant Porter, David M. Hodge, and Esparhecher, and the secretary of interior, William F. Vilas, representing the United States. The cession was approved by the national council on January 31st. The principal provisions of this cession are given in the act of March 1, 1889 (this act is entitled, "An act to ratify and confirm an agreement with the Muscogee (or Creek) Nation of Indians in the Indian Territory, and for other purposes," 25 Stat., 757), namely:

Art. 1. That the Muscogee (or Creek) Nation, in consideration of the sum of money hereinafter mentioned, hereby absolutely cedes and grants to the United States, without reservation or condition, full and complete title to the entire western half of the domain of the said Muscogee (or Creek) Nation lying west of the division line surveyed and established under the treaty of eighteen hundred and sixty-six, and also grants and releases to the United States all and every claim, estate, right, or interest of any and every description in or to any and all land and territory whatever, except so much of the said former domain of the said Muscogee (or Creek) Nation as lies east of said line of division, surveyed and established as aforesaid, and is now held and occupied as the home of said nation.

. . . . . .

WHEREAS, The Muscogee (or Creek) Nation of Indians has accepted, ratified and confirmed articles of cession and agreement by act of its national council, approved by the principal chief of said nation on the thirty-first day of January, eighteen hundred and eighty-nine, wherein it is provided that the grant and cession of land and territory therein made shall take effect when the same shall be ratified and confirmed by the Congress of the United States of America, therefore:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that said articles of cession and agreement are hereby accepted, ratified and confirmed.

Sec. 2. That the lands acquired by the United States under said agreement shall be a part of the public domain, but they shall only be disposed of in accordance with the laws regulating homestead entries, and to the persons qualified to make such homestead entries, not exceeding one hundred and sixty acres to one qualified claimant. And the provisions of section twenty-three hundred and one of the Revised Statutes of the United States shall not apply to any lands acquired under said agreement. Any person who may enter upon any part of said lands in said agreement mentioned, prior to the time that the same are opened to settlement by act of Congress, shall not be permitted to occupy or to make entry of such lands or lay any claims thereto.

for the Indian department, the sum of $1,912,942.02 was appropriated to pay the Seminole Nation of Indians in full for all right, title, interest, and claim in lands ceded by the Seminoles by the third article of the treaty of 1866.[2] The Seminole delegates, on March 16, 1889, executed a release of these lands. The lands thus released, with those ceded by the Creeks, formed what was known as the "Oklahoma country."

The act of March 2, with further reference to the Creek and Seminole cessions, contained all the directions that Congress provided for the opening and settlement of Oklahoma. In this respect, the deficiencies of the act caused some temporarily serious consequences, especially the failure to provide any form of civil government. The act provided for the reservation of sections 16 and 36 for public schools; that the land was to be occupied by actual settlers only, under the homestead laws; and that land not exceeding 320 acres might be entered for townsite purposes. These are all the essential provisions of the act which provided for the opening of Oklahoma.[3]

Immediately that the passage of the act

[2] These were the lands that had been ceded to the Seminoles by the treaty of 1856 (which see), and in the treaty of 1866 had been granted to the United States for the settlement of other tribes of Indians. The portions of the act of March 2, 1889, pertaining to the Seminole lands, are as follows:

(57) Sec. 12. That the sum of one million nine hundred and twelve thousand, nine hundred and forty-two dollars and two cents be, and the same hereby is, appropriated, out of any money in the treasury not otherwise appropriated, to pay in full the Seminole Nation of Indians for all the right, title, interest and claim which said nation of Indians may have in and to certain lands ceded by article three of the treaty between the United States and the said nation of Indians, which was concluded June fourteenth, eighteen hundred and sixty-six, and proclaimed August sixteenth, eighteen hundred and sixty-six, and which land was then estimated to contain two million one hundred and sixty-nine thousand and eighty acres, but which is now, after survey, ascertained to contain two million thirty-seven thousand four hundred and fourteen and sixty-two hundredths acres, said sum of money to be paid as follows: One million five hundred thousand dollars to remain in the treasury of the United States to the credit of said nation of Indians and to bear interest at the rate of five per centum per annum from July first, eighteen hundred and eighty-nine, said interest to be paid semi-annually to the treasurer of said nation, and the sum of four hundred and twelve thousand nine hundred and forty-two dollars and twenty cents, to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available; this appropriation to become operative upon the execution by the duly appointed delegates of said nation, specially empowered to do so, of a release and conveyance to the United States of all the right, title, interest, and claim of said nation of Indians in and to said lands, in manner and form satisfactory to the President of the United States, and said release and conveyance when fully executed and delivered, shall operate to extinguish all claims of every kind and character of said Seminole Nation of Indians in and to the tract of country to which said release and conveyance shall apply, but such release and conveyance and extinguishment shall not inure to the benefit of or cause to invest in any railroad company any right, title, or interest whatever in or to any of said lands, and all laws and parts of laws so far as they conflict with the foregoing, are hereby repealed, and all grants or pretended grants of said lands and interest or right therein now existing in or on behalf of any railroad company except right of way and depot grounds, are hereby declared to be forever forfeited for breach of conditions.

[3] These provisions from the act are herewith quoted:

Sec. 13. That the lands acquired by the United States under said agreement shall be a part of the public domain, to be disposed of only as herein provided, and sections sixteen and thirty-six of each township, whether surveyed or unsurveyed, are hereby reserved for the use and benefit of the public schools, to be established within the limits of said lands under such conditions and regulations as may be hereafter enacted by Congress.

That the lands acquired by conveyance from the Seminole Indians hereunder, except the six-

allowing the opening of the Oklahoma country was made known, the boomer organizations on the borders increased their activity, and the press throughout the country, by descriptions of the wonderful country that now lay as a gift to home-seekers, focused the attention of thousands in this direction. The president was importuned from all sides to issue his proclamation for the opening. Congress had adjourned after passing the act of March 2, and President Harrison, after his inauguration, had to pursue one of two courses: either delay the opening until Congress should meet and remedy the defects of the legislation enacted by the preceding Congress, or yield to the insistent demands of the boomers and trust to the good sense and self-restraint of the settlers in regulating their own affairs until Congress could come to their aid. The latter course was the one he adopted, though with reluctance.[4]

The proclamation for the opening of the Oklahoma lands was issued on March 23, providing that at noon on April 22, 1889, the Oklahoma lands, containing 1,887,800 acres, would be open for settlement. The proclamation is a document of more than ordinary interest in Oklahoma history, marking, as it does, the culmination of years of aggression against the integrity of the Indian Territory, and also the beginning of that period of history which closes with the extension of white man's govern-

teenth and thirty-sixth sections, shall be disposed of to actual settlers under the homestead laws only, except as herein otherwise provided (except that section two thousand three hundred and one of the Revised Statutes shall not apply): And provided further, That any person who having attempted to, but for any cause, failed to secure a title in fee to a homestead under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make a homestead entry upon said lands: And provided further, That the rights of honorably discharged Union soldiers and sailors in the late civil war as defined, and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, shall not be abridged: And provided further, That each entry shall be in square form as nearly as practicable, and no person be permitted to enter more than one-quarter section thereof, but until said lands are opened for settlement by proclamation of the President, no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall ever be permitted to enter any of said lands or acquire any right thereto.

The Secretary of the Interior may, after said proclamation and not before, permit entry of said lands for town-sites, under sections twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight of the Revised Statutes, but no such entry shall embrace more than one-half section of land.

That all the foregoing provisions with reference to lands to be acquired from the Seminole Indians, including the provisions pertaining to forfeiture shall apply to and regulate the disposal of the lands acquired from the Muscogee or Creek Indians by article of cession and agreement made and concluded at the city of Washington on the nineteenth day of January in the year of our Lord eighteen hundred and eighty-nine.

[4] Harrison's message in December, 1889, referring to the Oklahoma opening the previous April, said: "Congress had provided no civil government for the people who were to be invited by my proclamation to settle upon these lands, except as the new court which had been established at Muscogee or the United States courts in some of the adjoining States had power to enforce the general laws of the United States.

"In this condition of things I was quite reluctant to open the lands to settlement; but in view of the fact that several thousand persons, many of them with their families, had gathered upon the borders of the Indian Territory with a view to securing homesteads on the ceded lands, and that delay would involve them in much loss and suffering, I did on the 23d day of March last issue a proclamation declaring that the lands therein described would be open to settlement under the provisions of the law on the 22nd day of April following at 12 o'clock noon. Two land districts had been established and the offices were opened for the transaction of business when the appointed time arrived."

ment over all of the Indian country and the admission of Oklahoma to the Union.

Now, therefore, I, Benjamin Harrison, president of the United States, by virtue of the power in me vested by said Act of Congress, approved March second, eighteen hundred and eighty-nine aforesaid, do hereby declare and make known, that so much of the lands, as aforesaid, acquired from or conveyed by the Muscogee (or Creek) Nation of Indians, and from or by the Seminole Nation of Indians, respectively, as is contained within the following described boundaries, viz.:

Beginning at a point where the degree of longitude ninety-eight west from Greenwich, as surveyed in the years eighteen hundred and fifty-eight and eighteen hundred and seventy-one, intersects the Canadian river; thence north along and with the said degree to a point where the same intersects the Cimarron river; thence up said river, along the right bank thereof, to a point where the same is intersected by the south line of what is known as the Cherokee lands lying west of the Arkansas river or as the "Cherokee Outlet," said line being the north line of the lands ceded by the Muscogee (or Creek) Nation of Indians to the United States by the treaty of June fourteenth, eighteen hundred and sixty-six; thence, east along said line to a point where the same intersects the west line of the lands set apart as a reservation for the Pawnee Indians by act of Congress approved April tenth, eighteen hundred and seventy-six, being the range line between ranges four and five east of the Indian meridian; thence, south on said line to a point where the same intersects the middle of the main channel of the Cimarron river; thence, up said river, along the middle of the main channel thereof, to a point where the same intersects the range line between range one east and range one west (being the Indian meridian), which line forms the western boundary of the reservations set apart respectively for the Iowa and Kickapoo Indians, by executive orders, dated, respectively, August fifteenth, eighteen hundred and eighty-three; thence, south along said range line or meridian to a point where the same intersects the right bank of the North Fork of the Canadian river; thence, up said river, along the right bank thereof, to a point where the same is intersected by the west line of the reservation occupied by the Citizen Band of Pottawatomie, and the Absentee Shawnee Indians, set apart under the provisions of the treaty of February twenty-seven, eighteen hundred and sixty-seven, between the United States and the Pottawatomie tribe of Indians, and referred to in the act of Congress approved May twenty-three, eighteen hundred and seventy-two; thence, south along the said west line of the aforesaid reservation to a point where the same intersects the middle of the main channel of the Canadian river; thence, up the said river, along the middle of the main channel thereof, to a point opposite to the place of beginning; and thence north to the place of beginning (saving and excepting one acre of land in square form in the northwest corner of section nine, in township sixteen north, range two west, of the Indian meridian in Indian Territory, and also one acre of land in the southeast corner of the northwest quarter of section fifteen, township sixteen north, range seven west, of the Indian meridian in the Indian Territory; which last described two acres are hereby reserved for Government use and control), will, at and after the hour of twelve o'clock, noon, of the twenty-second day of April, next, and not before, be open for settlement, under the terms of, and subject to, all the conditions, limitations and restrictions contained in said act of Congress, approved March second, eighteen hundred and eighty-nine, and the laws of the United States applicable thereto.

And it is hereby expressly declared and made known, that no other parts or portions of the lands embraced within the Indian Territory than those herein specifically described, and declared to be open to settlement at the time above named and fixed, are to be considered as open to settlement under this proclamation or the Act of March second, eighteen hundred and eighty-nine, aforesaid; and Warning is hereby again expressly given, that no person entering upon and occupying said lands before said hour of twelve o'clock, noon, of the twenty-second day of April, A. D. eighteen hundred and eighty-nine, hereinbefore fixed, will ever be permitted to enter any of said lands or acquire any rights thereto; and that the officers of the United States will be required to strictly enforce the provisions of the act of Congress to the above effect.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington this Twenty-third day of March, in the year of our Lord one thousand eight hundred and eighty-nine, and of the Independence of the United States the one hundred and thirteenth.

(Seal) BENJ. HARRISON.

By the President:

JAMES G. BLAINE,
Secretary of State.[1]

[1] It is said that the proclamation for opening the Oklahoma country, as originally prepared in the interior department and sent to President

The act of Congress of March 2d was the signal for a rapid concentration of home-seekers on all the borders surrounding the Oklahoma lands, and with each day the number increased until the little band of faithful who for years had followed the leadership of Payne and Couch had swelled into an army even before the president's proclamation had given the final assurance of the opening. During the month that intervened between the date of the proclamation and the day of the opening, the waiting multitude was reinforced by additions from every portion of the country. Those who came to participate in the rush were not only the original boomers, nor confined to those actually desirous of finding homesteads, but comprised a great host of the curious, the speculative, and the adventurous element, who gravitated naturally to this scene of border excitement, and whose presence would continue only so long as the incidents of the opening would satisfy their craving for the free and unrestrained life of a new country.

From one phase of the Oklahoma opening was coined a new word for the English language, and its slangy significance had a vogue through the country for several years afterward. The regulations, prescribed by Congress, that none should endeavor to enter the country as homesteaders until the hour of opening, under penalty of forfeiting all right to homesteads, were difficult to enforce against a body of eager land claimants, many of whom had for years schemed and hoped for possession in this magnificent country, and who now, finding that the prize was to be presented to all the world on terms of equal opportunity, resented this invasion of what they believed their prior rights. To anticipate the rush, and to make sure of the claims they had selected during previous residence or while passing through the country, was a temptation that hundreds could not resist, and that drove them to every sort of evasion, and even to armed resistance, in circumventing the guards and establishing their locations before the day set for the opening. Hence arose the term "sooners" in referring to that class. And though "sooner" was generally a term of reproach, that later was applied loosely in a significance far from its original meaning, the cause of the "sooners" was one that, in some of its aspects at least, deserved sympathy and was not without argument to support its departure from strict legality. They were, as a class, the vanguard of Oklahomans, men who had planned homes in this country long before the great mass of settlers ever considered locating here. Some of them had been in more or less interrupted occupation, though illegally, of land in the Oklahoma country for a year or more, deeming themselves as well justified in living there as the cattlemen whose herds were all around them. After enduring so much for the sake of living in a forbidden land, it was perhaps natural that they regarded with hostility the approach of thousands of newcomers who would have equal chance with themselves in entering this

Harrison for his signature, fixed the day of opening on Saturday. The president, who was quite precise and scrupulous, after looking the document over, turned to his secretary and asked: "On what day of the week does the 20th fall?" "The 20th is on Saturday, Mr. President." "Why, this will never do," said the president, suddenly manifesting great concern. "If that country is opened on Saturday, the people will spend all day Sunday in working to build their homes and getting settled." In the interest of proper Sabbath observance, and to allow the boomers a day of Sunday calm before the rush, the president had the proclamation returned to the department and the date changed so that it would fall on Monday.

land, and might outrace them at the opening and secure the very homestead around which the "sooners" had set their stakes and often had improved by the plow and with fences and dug-out homes. It is proper to give this point of view before censuring this class, and it may be said that the real "sooners" above described were entitled to more consideration than the other type of settlers who, while anticipating in an equal degree the opening hour, had taken no part in the long campaign for the opening and endured none of the hardships connected with a real "sooner's" experience.[6]

Long before the day of opening the country was filled with these settlers. The soldier guards patrolling the border of the country were powerless to prevent the entrance of individuals and small parties within the lines, and the most the officials could do was to raid the vicinities where the sooners had established themselves. In describing the opening of the Oklahoma country for the information of later generations, the general statement should be made that all those who took part in the memorable rush of April 22d were not lined up on the border around the territory before the signal gun was fired, nor was the race altogether to the swift who hurried over the prairies at the report of the pistol. One of the sooners who himself took part in the movement into the territory before the legal time said that on the night before the opening it was impossible to move along the gulches and among the bushes about the favored locations in the country without running into another sooner. Allowing for the exaggeration incident to such a relation, it is clear that hundreds were on the ground many hours before noon April 22.

The removal, on different occasions before the opening, of bodies of these settlers was accompanied by the hardships which always go with eviction. In some cases the illegal tenants resisted the soldiers, and several deaths that followed became the subject of widespread comment on the part of the newspapers, those friendly to the boomers exaggerating the circumstances and by far-fetched comparisons exciting public sympathy for these honest and poor homesteaders thus shamefully driven from their lands by a cruel soldiery. Two quotations from the contemporary press will illustrate some phases of this matter. A Wichita correspondent of a Chicago paper of March 16th says:

"Troop G of the Fifth Cavalry arrived at Oklahoma station today under Lieutenant John M. Carson. The boomers, having been advised of the expected arrival the night before, were in a demoralized state and fled to the woods and underbushes to conceal themselves. The scouts, however, managed to find over a hundred of them and rounding them up, drove before them men, women and children, with teams, on horseback and afoot. Those who resisted were taken with force. The dug-outs and tents were torn down, houses burned, and claim foundations and marks torn up and obliterated. The body thus gathered are now being taken north to the Kansas line. . . ."

The second dispatch is dated March 19, and is as follows:

"There are at Fort Reno some six hundred regulars, and in that neighborhood are 2,000 or 3,000 boomers. . . . The settlers have been going into the forbidden lands and blazing the claims they intended

[6] See views of Asa Jones on this subject, elsewhere in this work.

to pre-empt when the territory was opened. . . . Day by day they have been going out and marking the best homesteads along the streams, on the uplands and everywhere. When attacked by the troops they fled to the timber, and as they could outrun the soldiers it was simply a picnic for the boomers to dodge back and forth."

The existence of organized bodies of boomers is declared in the following extract from the Chicago *Tribune* of April 13:

"For a number of years regularly formed associations have been prospecting over Oklahoma. The country to-day is literally covered with stakes, indicating where members of the different 'colonies' have located their claims, and in many places even town lots are staked out. The ground has been thoroughly surveyed many times, especially the desirable portions. The members of these societies are combined to support and protect each other in their claims, and they will do it. . . . These bodies are ready to move in a rush, en masse, the instant the hour appointed strikes."

A report became current some days before the opening that an attempt would be made by the boomers on April 21 to burn all the railroad bridges on the Santa Fe so that no trains would get in on the opening day. The object would be to allow the boomers to take possession of the claims they had staked out, before the arrival of the rush. A guard of the military was placed at some of the bridges to prevent any such attempt.

Simultaneous with the opening proclamation was reported the formation in Topeka of an Oklahoma Townsite and Improvement Company, of resident capitalists. The charter set forth the purposes of the company to lease and plat, improve and sell townsites and lots thereon and additions in the public domain and elsewhere; also to open, build and operate roads, tramways, ferries, and bridges in Oklahoma, and promote by lawful methods the rapid settlement and peaceful government, etc.

This introduces another important movement connected with the opening and settlement of the original Oklahoma. The company above mentioned was only one of various townsite companies that were formed, especially in Kansas, for the purposes above outlined. The part taken by such companies in the first weeks of Oklahoma's history is portion of the permanent record in the history of nearly all the towns of the original Oklahoma. Like the settlers' associations just spoken of, these townsite companies were formed on the principle that in union and system there is strength and success. And as subsequent events proved, these organizations, by money, influence and systematic work, were enabled to gain a controlling power in the founding and in the early government of many of the towns, and in some instances successfully overcame the unorganized opposition and for several months kept complete control of the civil government. In part, their control, like that of all autocratic bodies, was oppressive and even tyrannical, and naturally excited the bitter hostility of those in the opposition. But on the other hand, remembering that Oklahoma was unprovided with civil government during the first year of its existence, the townsite companies and settlers' associations partially justified their existence in furnishing the backbone of the law and order movements by which the government of the towns and cities was administered.

In enforcing the regulations the presence of a large number of soldiers was necessary. On April 16, Brigadier General Merritt was directed to go in person to Oklahoma so as to be on the spot and give such

orders to the troops as any emergency might require. "General Merritt will make such disposition of his troops as will enable him promptly to enforce order when he may be directed by the president to the the troops in the execution of the powers conferred by law on the president." On April 19 an additional order directed that "General Merritt act in conjunction with the marshals of the United States courts having jurisdiction in the country . . . to preserve the peace, and will upon the requisition of such marshals . . . use the troops under his command to aid them in executing warrants, making arrests and quelling any riots or breaches of peace that may occur. . . . He will also see that the laws relating to the introduction of ardent spirits into the Indian country are enforced."

The troops in Oklahoma at the time of the opening were stationed as follows, as described by General Merritt about May 1st: Four companies of infantry at Oklahoma station, under Lieut.-Col. Snyder, 10th Infantry; two troops of cavalry under Major Baldwin, 7th Cavalry, on Main Canadian north of Purcell; four companies of infantry under Captain Auman, at Kingfisher; four companies of infantry under Captain McArthur, at Guthrie. Also, two troops of cavalry in Cherokee Strip on the line south of Arkansas City, one troop of cavalry to the north of Kingfisher, and one to the east of Oklahoma station—all to keep settlers from intruding on Indian Territory.

In April the commanding officer in the Cherokee Strip reported that he was holding a large number of citizens at the Kansas line. These complained that they were at a disadvantage as compared with those waiting in the Chickasaw and Pottawatomie nations. Accordingly on April 11 the secretary of war sent the following instructions to Major General Crook: "General Merritt will instruct his officers to allow the intending settlers to move by regular marches . . . along the public highways, post or military roads, or . . . cattle trails through the Cherokee Outlet. . . . The movement should not commence earlier than is necessary to give the settlers reasonable time to reach the Oklahoma border at noon on that day. . . . The Indians should be given to understand that by the passage through the Outlet there is no disposition to appropriate their lands, and that it will be continued no longer than is necessary after the first emigration to the Oklahoma country is over. After the passage of the emigrants the troops will scout the Cherokee Outlet and require all persons unlawfully there to move on."

Before the opening day people were massed on every side of the Oklahoma lands, on the west, on the north along the line of the Cherokee Strip, on the east in the Pottawatomie country, and all along the Main Canadian river on the south. During the days of waiting, the border towns were crowded with a population of restless, eager humanity comprising every class from the honest homeseeker to the faro gambler. Arkansas City, which had been the headquarters for the boomers for several years, was a typical case of the border town during the closing days of March and the first weeks of April. A correspondent writing from that town a few days before the opening described some of the picturesque features:

"Arkansas City to-day looks like Leadville in its first flush of prosperity. Besides the thousands of genuine Oklahoma boomers whose number is increasing every hour, the streets are filled with the hangers-on of

every excitement. Every corner is occupied by a 'faker' of one sort or another; one is selling prize-package soap; another has a patent medicine; a third is setting forth the virtues of a patent bridle; and a fourth has cheaply gotten up maps of Oklahoma, professing to show the most desirable locations for intending settlers.

"The brethren of the green cloth of course are present in full force. Every saloon has its faro and stud-poker game, while many more are run in tents by themselves. . . . The crowd increases every hour. The so-called hotels were filled to overflowing several days ago, and men slept in depots or in stores—anywhere place could be found to unroll the pair of blankets which everyone carries with him. Now they have invaded the saloons, and with the clink of glasses and rattle of chips is mingled the long-drawn snore of some boomer who has stretched out beneath a table or in a corner to snatch a few hours' rest."

"A continuous string of prairie schooners," said a dispatch from Caldwell, April 12, "is wending its way toward the boomers' camp on Fall Creek just south of the city. . . . Within two or three days permission will be granted to cross the Cherokee Strip to the edge of Oklahoma, so that settlers from the north may have the same show that those do who are now at Purcell.[1] The line from here as far east as Arkansas City is patrolled by soldiers, and every bridge and ford is guarded. No one can cross except those provided with a pass either from the Cherokee Strip Association or from the military. On the Santa Fe line no passenger is allowed to stop at any point in Oklahoma. There are guards at every station."

Every day added variety to the excitement and numbers to the waiting multitude. A volume would hardly contain the incidents of the opening. Here was drawn a throng in which human nature was displayed at its best and at its worst, but all under the strain of intense and eager excitement. Land and home hunger, speculative enterprise, and longing for mere adventure were dominating impulses in the dramatic events of that day in April when the rush was made. The conditions were truly American: the event called for supreme qualities of activity and alertness, and satisfied men's passion for rivalry—it was a race, in which thousands joined, while the entire nation looked on and was thrilled with the unique spectacle. On that and the following days, people living hundreds of miles from the scene gathered in groups and discussed the "great run" with the same eager interest they would have felt in a national election or a great battle.

On that day, as in all scenes where a multitude vies in action, both tragedy and comedy held the stage, and from the trumpet blast at noon till the sun set and the stars shone on the tented fields humanity played its parts with the abandon of those released from the measured routines of life and driven on by the impulses of novel experience. It was a terrific race—a contest for the prize of land—without handicaps and each participant on equal terms with his rivals. It was a game in which the chivalry of mutual helpfulness and coöperation had no part. Each individual being for himself, and the qualifica-

[1] One boomer is said to have had the following legend on his covered wagon: "Chintz-bugged in Illinois, sicloned in Newbraska, whitecapped in Injianny, bald-nobbed in Missoury, prohibited in Kansas, Oklahomy or bust."

tions being equal, it followed that for the time every man was against his neighbor, and superior speed and shrewdness and even the display of threats and violence were considered legitimate means for reaching the goal. Riders of swift horses gave the dust to a widow driving a clumsy wagon in which were contained all her possessions. Those who knew the country and its ways hurried on to coveted claims, leaving the ignorant to follow blindly in their wake. The timid had no recourse against the unscrupulous who enforced their demands at the point of a gun, and had to move on to less desirable lands. And yet it was all a part of the game, and those who suffered defeat for the most part accepted their fortune in that way, without the ranklings of injustice. The race being run, men once more resumed the habits and practices of social life, and the bitter rivals of yesterday became the fellow citizens of to-day, working harmoniously in the American spirit to upbuild such communities and organized social institutions as they had lived under in their former homes.[8]

It would be impossible to describe in detail the rush of April 22.[9] Every mile of the boundary line of Oklahoma restrained a crowd of intending settlers until noon. They

[8] A tribute to this disposition on the part of the settlers at once to settle down and observe the civil restraint characteristic of Americans, was paid in President Harrison's message in December, 1889, in which he discusses the status of the people and law and order in Oklahoma. He says: "It is much to the credit of the settlers that they very generally observed the limitation as to the time when they might enter the territory. Care will be taken that those who entered in violation of the law do not secure the advantage they unfairly sought. There was a good deal of apprehension that the strife for locations would result in much violence and bloodshed, but happily these anticipations were not realized. It is estimated that there are now in the territory about 60,000 people, and several considerable towns have sprung up, for which temporary municipal governments have been organized. Guthrie is said to have now a population of almost 8,000. Eleven schools and nine churches have been established, and three daily and five weekly newspapers are published in this city, whose charter and ordinances have only the sanction of the voluntary acquiescence of the people from day to day.

"Oklahoma City has a population of about 5,000, and is proportionately as well provided as Guthrie with churches, schools, and newspapers. Other towns and villages having populations of from 100 to 1,000 are scattered over the territory.

"In order to secure the peace of this new community in the absence of civil government, I directed General Merritt, commanding the Department of the Missouri, to act in conjunction with the marshals of the United States to preserve the peace, and upon their requisition to use the troops to aid them in executing warrants and in quieting any riots or breaches of the peace that might occur. He was further directed to use his influence to promote good order and to avoid any conflicts between or with the settlers. Believing that the introduction and sale of liquors where no legal restraints or regulations existed would endanger the public peace, and in view of the fact that such liquors must first be introduced into the Indian reservations before reaching the white settlements, I further directed the general commanding to enforce the laws relating to the introduction of ardent spirits into the Indian country.

"The presence of the troops has given a sense of security to the well-disposed citizens and has tended to restrain the lawless. In one instance the officer in immediate command of the troops went further than I deemed justifiable in supporting the de facto municipal government of Guthrie, and he was so informed, and directed to limit the interference of the military to the support of the marshals on the lines indicated in the original order. I very urgently recommended that Congress at once provide a territorial government for these people. Serious questions, which may at any time lead to violent outbreaks, are awaiting the institution of courts for their peaceful adjustment. The American genius for self-government has been well illustrated in Oklahoma; but it is neither safe nor wise to leave these people longer to the expedients which have temporarily served them."

[9] For much information on the events of the opening day the reader is referred to: Sidney Clarke's narrative, in another chapter; to the more detailed history of the founding of Oklahoma City in the following chapter; and to the individual sketches of some of the 89'ers that appear in Volume II.

came in from the Cherokee Strip on the north, from the Creek and Pottawatomie country on the east, the Indian reservations on the west held their share of excited Oklahomans, while all along the Main Canadian from Purcell westward the home-seekers stood in anticipation of the noon hour. Thousands came in over the Santa Fe Railroad, starting from Arkansas City or Purcell. The number that entered the territory on that day can never be known with accuracy, and the estimates made are largely in the nature of a guess, but it is true that hardly one of the nearly two million acres opened to settlement was without a claimant when darkness fell, not to mention the thousands who were congregated on the various half-sections taken up for townsite purposes. The number of claimants was much in excess of the claims, and for this reason most of the desirable quarter sections were found to be occupied by two or more settlers, each claiming priority, and ready to dispute his rivals with force or at law. From this situation was developed the long and bitter litigation which filled the federal and territorial courts with an interminable docket of land suits, some of which were contested for nearly twenty years, and in some instances were settled in the supreme court of the United States. This phase of Oklahoma settlement must be reserved for later discussion, while the more immediate events of the opening are described.

CHAPTER XXI

FOUNDING OF CITIES AND ESTABLISHMENT OF LAW AND ORDER

The inrush of perhaps fifty thousand people in a single day resulted not only in the staking out of all the available lands into homesteads, but also the congregation of hundreds at certain advantageous points, usually selected beforehand as the site for towns. The formation of townsite companies in Kansas and elsewhere has been referred to. In most instances a plat of the proposed town had been drawn before the opening day, in several cases the company surveyors were at work on the sites before the arrival of the actual settlers, and plans had been carefully laid that the establishment of towns could be effected with the least possible delay and confusion.

It is necessary to advert once more to the novelty of the settlement of Oklahoma. Not even the history of California, following the discovery of gold, furnishes a parallel to the rush to this country in a single day. When the sun rose on April 23d Oklahoma was as densely populated as many states after an existence of years. The relations by which men work and live together had to be assumed or established at once. All the economic laws of supply and demand, of give and take, all the civic obligations that regulate the actions of the individual upon society, and the moral forces that restrain the evil and cultivate the good qualities of men, had to be called into existence and operation at once. And yet Oklahoma had no vigilantes organization, no reign of terror preceded the establishment of domestic tranquillity and the regular pursuit of the various occupations of a peaceful community. Of individual cases of injustice, of the exercise of tyranny, of the license and crime characteristic of a new country, many might be recorded. But the settlement of Oklahoma, on the whole, is the finest example in the world's history of the sudden transplanting of a large population in a new land without the accompaniments of bloodshed, of anarchy, and manifestations of mob spirit.

The founding of the ordinary American town has been a matter of natural growth. A cross-roads point, an eligible location on a waterway, or a railroad station, has furnished the usual incentive for the gathering of people into a town community. Around the cross-roads tavern, the post-office or mill, people singly or in small parties have chosen to settle, and by gradual process of growth and accretion a village has come into being, and perhaps later a city. But it has all come about by an evolutionary process, the inhabitants fell naturally into habits of social life and co-operation, and the attainment of civil government and organized institutions was effected as quietly as the simplest functions of life are performed.

But in Oklahoma, the development that took place elsewhere in months or years, was forced to completion in almost a day—it was the compression and reinforcement of natural forces such as are needed to produce a miracle, and in this respect one

is justified in speaking of the rapid expansion of Oklahoma and the founding of its towns in almost a day as miraculous.

The history of Oklahoma's growth during the first few months after the opening can best be illustrated by describing the founding of the principal centers of population. The history of its largest city, while in itself a story of unusual interest, is remarkable for its suggestive facts and incidents illustrative of the conditions that prevailed quite generally over the territory. While upwards of ten thousand people were congregated on the townsite of Oklahoma City, busily engaged in selecting lots, building homes and setting up quarters for trade and their regular vocations, other similar groups of people were engaged in building the towns of Guthrie, Kingfisher, Edmund and others. All over the territory, and at the same time, men were actuated by similar ambitions, and partook in activities that produced similar results. The history of a dozen towns dates back to April 22, 1889, and the stories of a hundred "pioneers" selected from these different points would tally in their prominent features.

On Sunday, April 21, 1889, says a contemporary historian, seven buildings stood along the Santa Fe Railroad in the bend of the North Fork of the Canadian. They were: the depot, section house, postoffice building, a government building, the home of the railway agent, a boarding house, and an old stockade[1] used by a stage company for an office. The high ground northeast of the depot was occupied that morning by four companies of United States infantry and a troop of the Fifth Cavalry, with Brigadier General Merritt, of the Department of the Missouri, in command.

The day passed without special incident. The south-bound train in the evening brought a crowd of eager passengers, but only a few of them succeeded in eluding the guard at the depot, and the rest were carried on beyond the limits of the forbidden ground. The soldiers were on hand to preserve order and enforce the regulations prescribed for the opening.

At noon on Monday, the 22d, the soldiers and others congregated at the Santa Fe depot awaited with great interest the result of the signal which they knew had been given to the crowding throngs just outside the Oklahoma boundaries. They did not have to wait long. By twenty minutes past twelve, says the chronicler of the "First Eight Months of Oklahoma City,"[2] white tents dotted the country as

[1] The old post trader's house that formed one of the buildings described as being on the site of Oklahoma City at the opening had three claimants, and became a subject of dispute that forms one of the permanent records of the war department, from the fact that Captain Stiles was called to prevent the destruction of the building by two of the claimants, the rights to the property being at that time in the hands of the United States court at Muskogee. The account of the building as given in the military reports is an item of historic interest: "The property in question consisted originally of a trader's store and small corral. They were erected a few years ago by Mr. Decker as a postoffice and trader's store for the convenience of the employes of the Santa Fe Railroad, then building, and to facilitate trade with Indians and others. Mr. Decker was an Indian trader, and failing to have his license renewed, sold the buildings to J. S. Evans, post trader at Fort Reno. Mr. Evans died not long after and the heirs of his estate sold the property to Mr. Sommers, quartermaster agent and now United States commissioner. On the death of Mr. Evans, post trader, 'Major' C. B. Bickford got the United States contract for transportation, and put up a corral outside the original corral, and purchased an interest in the old store and corral." Bickford was one of the claimants at the opening.

[2] This unique little book, printed at Oklahoma City in 1890, containing 110 pages in pamphlet form, was written by "Bunky," and aside from this name the historian gave no hint of his own

far as the eye could reach. At fifteen minutes after noon the representatives of the Seminole Land and Town Company stepped off the Santa Fe right of way and began laying off lots on Main street. The nearest legitimate starting point for the rush being fifteen miles away, it is evident that these were "sooners."

But at 19 minutes past one o'clock there arrived, after a hard ride from the Canadian river to the southwest, a party of Kansans who had conformed to the conditions of the rush. They included some notable names in the history of Oklahoma City.[8] The first train arrived, from Purcell, at 2:05 p. m. As soon as it crossed the river eager men began leaping from the cars, some of them jumping from the windows, and scattered over the townsite and vicinity, setting stakes and appropriating the most eligible lots they could find. It is said that twenty-five hundred people came with this train. Each one had his stakes ready, many with their names written on them, and as soon as their feet touched the ground the crowd broke into all directions and raced over the ground to find a place to drive stakes. One old lady drove her stakes between the railroad ties, and it required considerable persuasion on the part of the soldiers to convince her that the right of way was not open to settlement.

The Oklahoma Colony, made up of men from several towns in Kansas and organized long before the opening for the purpose of laying out a town, had representatives on the site of Oklahoma City within an hour and a quarter after the signal gun for the opening. This is the statement of the historian "Bunky," who gives the following account of the colony's operations on the opening day. Rev. James Murray, a Methodist minister, was president of the company, and C. P. Walker, secretary. "They left Purcell at noon, Saturday, April 20, and drove up the Canadian to the southwest corner of township 10 north, range 3 west, where they went into camp. By Monday noon, the 22d, the crowd was increased by other arrivals until it numbered over three hundred. By a vote of the people, D. Walker, of Greeley, Kansas, was elected captain. Upon comparison, it was found the watches in the crowd differed fully one-half hour. Mr. Kincaid of Cherryvale, Kansas, and Rev. James Murray rode in a one-horse top buggy and reached the townsite of Oklahoma City in one hour and fifteen minutes, a distance of fifteen miles. Mr. Harrison and C. P. Walker—the company's surveyor and secretary—had been on the scene but a few minutes before the arrival of Mr. Kincaid and Rev. James Murray, and were at work on the government reservation, not knowing that it had been withdrawn for military purposes. When this fact became known, they commenced operations west of the railroad, and erected a big tent. This tent was made the headquarters of the Oklahoma Colony, and about three o'clock the polls were declared open and voting commenced for mayor and city clerk. When

individuality. His real name was Irving Geffs. Some time before the incidents which he describes he had taken too much liquor, and on recovering his senses found that he was a regularly enlisted soldier of the United States army, a position for which he had no special liking, but it was several years before he was able to get out. He was with the infantry that camped at Oklahoma City the day before the opening, and on leaving the army remained in the city for some time. He was a left-armed scribe, a clever writer, and was in the employ of some of the first newspapers of the city, especially with Frank McMaster.

[8] See sketches of J. H. McCartney, John Holzapfel, Delos Walker, in Volume II.

the votes were counted—over four hundred having been cast—it was found that James Murray was elected mayor and C. P. Walker city clerk. While this election was going on, Hon. Sidney Clarke of Lawrence, Kansas, and Gen. J. B. Weaver of Iowa—as representatives of the Seminole Town and Land Company—addressed the people from a wagon, protesting against the election, and called for a public meeting at the intersection of Main and Broadway the following evening."

The history of the provisional government of Oklahoma City embraces the principal events of the first year of the city's existence. The provisional government was the object of such active hostility on the part of the minority party, and involved so many questions of fundamental importance in the career of the new country, that it was made the subject of an exhaustive inquiry by Congress, and the records of the time may be found largely in the reports made to Congress during its fifty-first session.

Though an attempt to organize a city government was made on the opening day, resulting in the election of James Murray for mayor, it appears that this attempt failed through the opposition of the "Seminole" party. The immediate objects of such organization were to create a corporation with authority to enter a townsite under the defective laws by which Oklahoma was opened. For this reason it was necessary that the company or organization engaged in the promotion of the townsite should control this civil authority in order to secure the rewards of its enterprise; hence the determined fight made by the Seminole Company to control the government of Oklahoma City.

Consequently, after the first few days of confusion, while the survey of the site was being made by the rival Seminoles and "Citizens" party, a call was issued, on April 26, by the former, for a mass convention of the citizens, for the purpose of creating a temporary government for the city.[4]

It was a remarkable assemblage that convened the following evening, with the slanting rays of the sun falling across the red earth of the newly worn streets and reflecting in long shadows the rough houses and tent shelters that clustered about the intersection of Main and Broadway. A chairman was appointed (Ledru Guthrie), and then the convention proceeded to the unanimous adoption of some articles of government that of themselves prove a high capacity for self-government that then resided in the controlling element of Oklahoma City's population. Only two nominations were made for the provisional offices of mayor and recorder, and William L. Couch, the lieutenant and successor of

[4] *Call for Mass Convention.*

Oklahoma City, April 26, 1889.

We, citizens of the city of Oklahoma, request the meeting in mass convention of all citizens of the city for the purpose of nominating a temporary mayor and city recorder to hold their offices until such time as there may be elected by ballot their successors, which election shall be held within five days from and after the election of said temporary mayor and recorder. Such mass meeting to be held April 27, 1889, at the hour of 6:30 o'clock p. m., and every citizen of said city shall be entitled to a voice. The election of said temporary mayor and recorder shall be by the voice, and shall vest in them the power to appoint police to preserve the order of said city, and the power to call said election for permanent mayor, recorder and prescribe the manner of holding said election. Said mass meeting to be held at the corner of Main and Broadway.

(Signed) Ledru Guthrie, J. B. Weaver (not a citizen of the city, but living near the same), John B. Banks, S. Lum Biedler, W. P. Easton, J. E. Carson, J. D. Drake, T. B. Riley, G. A. Biedler, p. m., O. H. Violet, Sidney Clarke, Bluford Wilson, D. A. Harvey, W. P. Shaw.

"Boomer" Payne, was chosen for mayor, and William P. Shaw for provisional recorder.[5] It is said that at the conclusion of the convention, all united in a grand chorus of "Praise God from Whom All Blessings Flow." That a host of settlers, suddenly gathered in one spot from all parts of the country, united in voicing the familiar doxology, whatever may have been the depth of feeling with which it was sung, is hardly less significant of the homogeneity of this typical American assemblage than the unanimity with which they adopted resolutions providing for a civil government.

Following the appointment, in convention, of temporary officials, Mayor Couch issued a proclamation for a regular election, set for May 1st. The corner of Main and Broadway was one polling place, and all who lived south of Clarke street (now Grand avenue) were to cast their ballots at the corner of California avenue and Broadway.[6] The results of this first city

[5] *Record of Mass Convention.*

Oklahoma City, Ind. T., April 27, 1889.

At a mass meeting of the citizens of Oklahoma City, held pursuant to the foregoing petition and call, the Hon. Ledru Guthrie was chosen chairman and O. H. Violet secretary. The chairman having explained the purpose of the meeting, Hon. Bluford Wilson moved the adoption of the following resolutions, which were unanimously adopted:

"Whereas we, the people of Oklahoma City, in the Indian Territory, for the more adequate protection of property and for the better preservation of order and to form a more perfect union, do ordain these resolutions to be in force and effect:

"*First.* That there shall be elected one temporary mayor, who shall hold his office for the term of five days or until the successor is duly elected and qualified.

"*Second.* That there shall be elected one temporary recorder, who shall be elected for five days, or until a permanent provisional successor is duly elected and qualified.

"*Third.* It shall be the duty of the temporary mayor to call an election for the first day of May, 1889, for mayor, for recorder, for police judge, for city attorney, and city treasurer, for six councilmen, which call shall be by proclamation signed by said temporary mayor and attested by said temporary recorder and shall be posted in three public places in said city at least two days before the day of said election, and shall proclaim the manner, the time, and the places of holding the same. He shall be ex-officio chief of police, and shall have power to appoint such additional persons as police as he may deem necessary to preserve good order; he shall have power to designate and appoint three judges for each voting place, who shall have charge of the ballot boxes and the counting of said ballots.

"*Fourth.* The temporary recorder shall make a complete record of this article in a book for that purpose, together with the proclamation by the mayor, and shall perform such other duty as may be imposed upon him by the mayor or council before his successor is elected and qualified.

"*Fifth.* Said permanent mayor and councilmen shall constitute the legislative power of said city government, and shall have power to provide by ordinance such rules and regulations as they may deem best for the public welfare of said city.

"*Sixth.* The temporary mayor, recorder and police appointed under said temporary mayor shall each receive the sum of $1 for their services."

Pursuant to the resolutions, which were adopted without any dissenting voice, Hon. David T. Littler, of Illinois, put in nomination William L. Couch, Esq., for the temporary mayor, which nomination was duly seconded. William P. Shaw was put in nomination for temporary recorder. No further nominations being made, the chairman declared the nominations closed, and proceeded to a vote on the nominations. A rising vote having been taken, the chair decided that W. L. Couch had received a majority of the votes cast. Whereupon, on motion of William P. Shaw, the election was declared unanimous. Motion was made and duly seconded that William P. Shaw be declared the temporary recorder by acclamation. Carried.

No further business appearing for consideration, the meeting adjourned sine die.

LEDRU GUTHRIE, Chairman.
O. H. VIOLET, Secretary.

[6] *Proclamation for First City Election.*

Whereas: By virtue of authority vested in me by certain articles adopted by the citizens of Oklahoma City, I. T., at a mass meeting held by them in said city on the 27th day of April, 1889, authorizing the calling of an election for permanent officers therein designated to be held on the first day of May, A. D. 1889, and for the

election are told in the records of the city recorder.[1]

The city government, though installed May 2, did not enter actively upon its duties until May 6, when it took charge of the affairs of the city. It then found itself unable to preserve order without the aid of the military. From that day to August 5, according to the report of the commanding officer at Oklahoma City, a

designation of the manner and time and places for holding the same; and,

Whereas: By section 2 it is provided that at said election to be held under said articles there shall be elected one person who shall be designated and termed mayor, and one person as recorder, and one person as police judge, and one person as city attorney, and one person as city treasurer, and six persons to act as councilmen, who shall hold their offices for the term of one year; and,

Whereas: By section 2 it is provided that the temporary mayor shall appoint three suitable persons to act as judges of each election precinct to be named by the mayor, who shall have charge of the ballot-boxes and of the counting of the ballots, and shall report the result of the same to the mayor and recorder, who shall declare said persons receiving the highest number of votes elected; who, after taking and subscribing to the oath of office required generally of such offices as they may have been elected to fill.

Now, therefore, I, W. L. Couch, temporary mayor of the town of Oklahoma City, do proclaim that a general election for one person as mayor, for one person as recorder, for one person as police judge, for one person as city treasurer, for one person as city attorney, and for three persons as councilmen from each ward, shall be held in the town of Oklahoma City, I. T., on the first day of May, A. D. 1889, which election shall be by ballot, either printed or written, and each citizen of lawful age of said town shall be entitled to vote for said officers, and that the places for voting shall be opened at 8 o'clock a. m. and close at 6 o'clock p. m., and that there shall be two voting precincts dividing said city into two wards as follows: All persons residing north of Clarke street [now Grand avenue] shall be entitled to vote at the place designated in said ward, which is at the junction of Main and Broadway; all persons residing south of Clarke street shall be entitled to vote at the place designated in said ward, which is at the junction of California avenue and Broadway. The following persons are designated to act as judges of the election north of Clarke street, viz.: J. W. Gibbs, George S. Chase and Moses Neal; and those to act as judges in the ward south of Clarke street, O. H. Violet, John A. Blackburn and James Murray, who shall count and return the ballots to the temporary recorder, who shall canvass said returns and make announcement of the result as soon as can be done.

WILLIAM L. COUCH, Temporary Mayor.

Attest: WM. P. SHAW, City Recorder.

[1] *Record of First City Election.*

Oklahoma City, Ind. T., May 2, 1889.

Upon personal notice being given by William L. Couch, mayor pro tempore of the provisional government of the city of Oklahoma City, Ind. T., there assembled at 4 o'clock p. m., on May 2, 1889, at the office of Ledru Guthrie, the following named persons, to-wit: William L. Couch, mayor pro tempore; William P. Shaw, secretary pro tempore; Mr. Sidney Clarke, Mr. E. G. Hudson, Mr. J. E. Jones, Mr. John Wallace, Mr. W. C. Wells, Mr. C. T. Scott, Mr. Ledru Guthrie, Mr. O. H. Violet, Mr. F. C. Quinton, Mr. John A. Blackburn.

Mr. William P. Shaw, secretary pro tempore of the provisional government of the city, announced the result of the canvass made by the qualified judges of the election held in the city of Oklahoma City for mayor, city recorder, city attorney, city treasurer, and police judge, and six councilmen, to have resulted in the selection of William L. Couch, mayor; John A. Blackburn, city recorder; Ledru Guthrie, city attorney; Frank C. Quinton, city treasurer; O. H. Violet, police judge; Sidney Clarke, councilman; E. G. Hudson, councilman; J. E. Jones, councilman; John Wallace, councilman; W. C. Wells, councilman; C. T. Scott, councilman.

The above candidates were duly elected at the city election held on May 1, between the hours of 8 o'clock a. m. and 6 o'clock p. m.

After the announcement made by the secretary pro tempore, Mr. William P. Shaw, of the provisional government, of the result of such election, the duly elected officials for the city government of Oklahoma City took the following oath of office, administered by United States Commissioner C. F. Sommers:

"We.....do solemnly swear that we will support the constitution of the United States and that we will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

After which certificates of election were given to each official respectively.

Mayor W. L. Couch called a meeting of the council at once, and on motion of E. G. Hudson,

guard of from five to fourteen men was daily sent to town as occasion required; and from August 5 to October 21, from two to four men were on duty in town every day. With a view to assisting the civil authorities and in repressing the liquor traffic, Captain D. F. Stiles, Tenth Infantry, was designated provost marshal (the title by which Captain Stiles was commonly referred to, but which was not official as indicating the scope of his duties or rank). For several months Captain Stiles was the active executive officer of the military at Oklahoma City. His report to Major J. P. Sanger in November, 1889, includes information as to the important occasions when the troops were used to preserve order in the city.[8]

From the day of opening for several months the federal troops had an active part in the regulation of affairs at Oklahoma City, and without their co-operation the authority of the first municipal organization would have been impossible to maintain. The interference of the military in town affairs, as also in its efforts to preserve the peace among disputants for land claims, were the subject of much complaint, and charges were not wanting that the commanding officers were not entirely disinterested in their direction of the movements of the troops. The whole matter finally came to the attention of Congress, and a resolution of the senate directed the war department to submit the detailed reports and official orders showing the movements of the troops and their connection with affairs at Oklahoma and elsewhere in the Oklahoma country since the opening. In accordance with that request, the secretary of war on February 25, 1890, laid before the senate all the official records of the army in Oklahoma for the preceding months, and these form a mass of historical data from which much of the following account of Oklahoma City is derived.[9]

Reporting as to the employment of the United States troops in the city of Oklahoma at the opening, Major J. P. Sanger on November 7, 1889, very exhaustively reviewed the course of events in the city, with particular reference to the employment of the military. General Merritt on assuming personal command of the troops at Oklahoma station just before the opening, had issued a circular (April 21) informing the settlers that the troops were assembled to protect government property, the United States mails, and to guard the people from lawlessness and disorder. The same day he issued another order announcing that the troops were to co-operate with the marshal of the United States courts. Throughout the early months of Oklahoma's history, as appears from the various orders issued, the federal government and military authorities were very scrupulous to observe the exact limits of duty in connection with the preservation of peace, without in any way interfering with the civil status as established by the people.

properly seconded and carried, a committee of three was appointed by the chair to confer with the city attorney to prepare the organic act for the government of the city.

The chair appointed Councilmen Clarke, Hudson and Jones as such committee to advise also with the city attorney.

A motion was made by Councilman Wallace, seconded by Councilman Clarke and carried unanimously, that the mayor appoint a mayor pro tempore to act as mayor in his (the mayor's) absence.

Councilman Sidney Clarke was appointed as such temporary mayor. Motion prevailed unanimously to adjourn, pending the preparation of the organic act, until 4 o'clock p. m.

JOHN A. BLACKBURN, City Recorder.

[8] Sen. Ex. Doc. No. 72, 51st Cong., 1st Sess.

[9] Senate Ex. Doc. No. 72, 51st. Cong., 1st Session.

Major Sanger in his report explains why the use of the military authority became necessary, in the character of the population that thronged over the site of Oklahoma City during the first day or so. "The crowd," he says, "was composed of people from all parts of the country, and embraced, among many honest settlers seeking homes, a class of dangerous lot-jumpers, land speculators, gamblers and sharpers, having no interest in the city or country beyond swindling the confiding and unwary, and pursuing their ordinary vocations as law-breakers. Of the truth of this there is ample evidence." The troops had entire charge of the city from April 22 to May 6, the United States marshals and the provisional civil authorities being unable to manage the great concourse of people without military aid.

It has been said that the de facto government of Oklahoma City, established soon after the opening, could not have existed without the support of the military. But this admission does not confirm the assertion, made by some in the early days of the city, that the troops were used to establish a quasi-martial law over the community, or that the influence of the civil authorities with the local commanding officers was unduly exercised to override the popular will. So far as the federal government interfered in local affairs, through its military arm, it was compelled to recognize the civil government established by regular and peaceable means. Furthermore, it appears that every time the troops were used to maintain order in the city, the local officers received instructions from their department commanders, and therefore could not be accused of discriminating in favor of one or the other faction.[10]

Concerning the division of public sentiment in Oklahoma City during its first months, Major Sanger, who looked at conditions from the standpoint of the army, reported, in November, 1889, as follows:

"I have sought the views of many prominent citizens and am not without some information as to public sentiment on this point. Those who come within any of the classes referred to by me in these reports as gamblers, liquor dealers (or as they are called here, 'boot-leggers'), lot-jumpers and thieves, whose operations have been checked by the troops, do now, and will hereafter, unhesitatingly denounce them [the action of the troops and the established government]. They want no government, civil or military, which they cannot control, and are now to be found in the opposition. The body of reputable citizens is divided into two parties which do not follow the lines of the two great parties of the country, but along the lines of local interests. They are distinguished by

[10] July 15, 1889, the following dispatch was sent to the commander of the troops at Oklahoma City: "The commanding general directs that, in any matter of violence directed against the city government of Oklahoma, with a view to its overthrow, you will use the troops in the maintenance of peace.

"This order applies to any disorders growing out of the efforts of the civil authorities of Oklahoma to suppress measures tending to the destruction of the city government.

"In other matters the general course heretofore pursued is approved and will be vigorously persisted in. This especially applies to the suppression of liquor traffic, and the prevention of its introduction into the territory in any form, however disguised."

July 23, this dispatch was sent to Captain Forbush, then in temporary command of the camp at Oklahoma City: "Recognition of the only civil government now in Oklahoma is approved and military force must be used if necessary in suppressing violence against it. Care should be taken, however, not to use the military force as merely a city police. Its presence in the territory is to suppress violence, from whatever source it arises. . . ."

the names of two rival townsite companies organized before the opening of Oklahoma to locate townsites and to secure town lots. They are the survivors of five such companies on hand at the opening, and are known as Seminoles and Kickapoos; the latter in opposition to the civil and military government. As distinguished from the Kickapoos, I believe that every prominent business man in Oklahoma is either neutral or on the Seminole side. They have confidence in the military and desire to retain it here, with its sphere of duties undiminished. These men are not enamored of the city government, but they wish no change until after Congress has acted and the titles to their lands are perfected. So evident is the purpose and so complete is the distrust of each of these parties towards the other, that I do not believe a change possible without serious disturbance. That an election, even if peaceably conducted, would remove existing difficulties, I can hardly believe. . . . No principle of our political system worth mentioning, except the right to life and property, is involved at all in the troubles here, and no danger to the rights of American citizens, or the sacredness of the ballot from the use of troops, need be apprehended. Meanwhile, the latter as a buffer between the contending mercenary factions seems only likely to suffer. . . ."

During the so-called "Seminole and Kickapoo war" (see part three of J. L. Brown's narrative) an attempt was made to limit the powers of the provisional government by submitting to the people a city charter, which, it was designed, should constitute a fundamental law and allow a more representative government.

When the attempt was made on July 16 to hold an election for this charter, serious trouble being apprehended, the local force of troops was reinforced by a troop of cavalry from Guthrie, making four companies of infantry and two troops of cavalry. A platoon of infantry was sent to town and the troops in camp were kept under arms the entire day. The infantry in town were stationed a block away from the voting places, and were not used at all, the election being prevented by the city officials. The official report of Captain Stiles says: "A number of attempts were made to create a riot by one G. W. Adams, an opposition leader, but all without avail, owing to the presence of the troops. The disturbance continued during nearly the entire day, and the troops were not withdrawn until after sunset."

A little later, another charter election was proposed, this time by the party in control of the city government, to satisfy the growing discontent on the part of many of the citizens. The charter was drawn by a committee of three from the city council, three members of the board of trade, and three from the citizens' or business men's committee. The mayor proclaimed the election for August 29. The result is described in the following telegram from Captain Forbush to the Department of the Missouri: "Vote on charter election held today in Oklahoma City was very light. For charter, 190 votes were cast; against charter, 516. The election was one of the most orderly I ever saw. No troops were in town, though they were held in readiness at camp for use if necessary to quell disturbance whenever the mayor should call for them."

September 20, the "committee of fifteen" issued a call for a charter election to be held on the following day. Speeches had been made on the streets for several days in favor of submitting a charter, and the mayor and council had been requested on

the 19th to call an election, which the latter refused to do,[11] on the ground that "it would be in violation of the city ordinances in regard to such elections." This refusal caused a new outburst against the city government, and it is said that threats were made to use force if needed to effect an election. Alarmed, Mayor Couch asked the intervention of troops to prevent the balloting. Colonel Snyder sent Captain Stiles and 25 men to the city, where they assisted the mayor to suppress the election. On one side it was claimed the troops prevented riot and bloodshed, while the charter advocates asserted that the only breach of peace was committed by the troops in clearing the streets. Major Sanger says in his report of November 7: "The peaceable intentions now claimed are hardly compatible with the tone of the speeches made beforehand, the attitude of the crowd when ordered to disperse, or the resistance then offered. It has been stated to me by several reputable citizens that it was the intention to kill both the mayor and Captain Stiles on this occasion, and that threats to that effect were known to have been made. Be this as it may and leaving the troops out of question, no one familiar with the facts and the character of the men concerned can doubt that a bloody riot would have followed had the election been persisted in. The city officials and their supporters were as determined as their opponents and would have resisted with arms any attempt to oust them from their positions."

Captain Stiles reported: "The troops arrived in the city at 7:30 a. m., and at 8:30 those in opposition attempted to hold an election. The proclamation of the mayor and the order of the camp commander had previously been posted in prominent places, and the leaders of the opposition movement warned that no election could be held. Notwithstanding this, an attempt was made to vote. A few ballots were cast when the mayor and city marshal attempted to stop the voting. This being unsuccessful and a serious disturbance being imminent, the troops were called upon and the crowd promptly dispersed. The attempt was repeated several times and incendiary speeches made. On each occasion the crowd—some two or three hundred—was driven back by the troops and the election prevented. Some two or three persons were slightly injured by bayonet thrusts and by being struck by the butts of the muskets, but none seriously. In about an hour the crowds had been all dispersed and order restored."

At Guthrie the organization of a provi-

[11] Mayor's Office, Oklahoma City, Ind. T., September 19, 1889.

To the People of Oklahoma City:

Whereas [reciting the action of the people in organizing a government and adopting a charter on April 27, and by general election on May 1 constituting a regular city government];

Whereas, It has come to my knowledge that certain persons calling themselves "the committee of fifteen," under the direction and control of one G. W. Adams and one J. L. Brown, are engaged in a lawless and seditious movement to overthrow the authority of the government aforesaid, thereby threatening the peace and stability of this community, depreciating values, destroying business, and rendering the rights of persons and property insecure; and,

Whereas, The persons calling themselves "the committee of fifteen" . . . have, without authority, assumed to call a pretended election to be held in this city on Saturday, September 21, 1889, for the purpose of carrying out their seditious plans and purposes. Now, therefore,

I, W. L. Couch, mayor of Oklahoma City, Ind. T., by virtue of the obligations resting upon me to protect the city from disorder . . . do hereby request and warn all law-abiding citizens to refrain from participating in the lawless proceedings aforesaid and to abstain from giving said proceedings countenance and support. I further declare it to be my unalterable purpose to suppress said lawlessness by all power at my command, and I call upon all law-abiding citizens to aid me in so doing.

sional city government was subjected to criticism and opposition very much as in Oklahoma City, and from similar causes. The character of the council and its early proceedings were described in a report of Inspector Pickler, May 18, 1889: "The council was very irregularly chosen to begin with, and as the people understood, for the purpose merely of putting the machinery of the city in motion. . . . The mayor was selected by a committee of seven chosen by a mass meeting, and a committee of one from each state and territory first chosen to recommend what action the people should take to govern themselves, by common consent afterward became the council; something in excess of thirty, I think, at the time chosen, but now numbering about fifteen.

"Grave responsibilities were forced upon them, and generally, I think, they have assumed and settled them in a creditable manner. They have preserved order, surveyed the town, cleared the streets practically. They have, however, assumed other powers and undertaken to act in various matters that is very . . . emphatically condemned. They appointed . . . a board of five arbitrators on settling the right of possession to lots, some being members of the council, at $10 per day each, compelling every contestant to deposit each $10 before his case could be heard . . . Have granted or pretended to grant a franchise for ten years to a company to supply the city with water . . ." and many ordinances, taxes, etc., that were considered arbitrary and oppressive and irregular.

Involved with the dissensions of the citizens of Oklahoma City in establishing a city government were the difficulties arising from town lot contests. Of all the features of Oklahoma history, the subject of townsite difficulties and homestead contests is the most ungrateful. For that reason perhaps, many who have sketched the development of Oklahoma have avoided the subject altogether, and kept the attention of the reader fixed upon the more interesting facts that portray the rapid growth of the territory in material and civic affairs. The homestead and townsite controversies were not an incident of progress, but the reverse; they cost the inhabitants of the country an aggregate of wealth that would have gone far to improve the contested lands permanently; they interfered with development just at the time when all efforts should have been directed to the cultivation of the fertile soil and the upbuilding of its towns and business resources; and they marred the narrative of what otherwise might have been the peaceful occupation and prosperous advancement of the most remarkable community in America.

Many individual cases of disputes between rival claimants for lots and homesteads have already been mentioned. Many such disputes were settled off-hand, by the persons immediately concerned. In some instances threats and intimidation won the victory, and the defeated party abandoned his claim, and sometimes withdrew from the country. Again, a determined and aggressive claimant held his own against everyone sent to dispossess him, setting at naught all "certificates" and orders from the provisional authorities. Often, too, the rivals settled their differences by arbitration, and after an interchange of money one would leave his claim and the other remained in peaceful possession. But, as the court records show, a great number of these contests were brought before the tribunals of law, and there fattened the purses of hundreds of lawyers and in some instances

dragged their weary length from one court to a higher until their final settlement is a matter of recent judicial history. Without attempting to follow the various trails of this maze of litigation, it is necessary to describe the origin of the troubles, since they intimately concern the settlement of Oklahoma and the founding of many of its towns. A lengthy chapter might be written on the "sooner cases" alone, and a summary of the litigation that grew out of the opening of Oklahoma would fill a volume.

In a communication, dated April 5, 1889, the commissioner of the general land office held, with reference to the entry of townsites, that in the absence of provisions for the incorporation of towns, and the absence of county courts within the Oklahoma country by which the entry might be legally certified, that the legislation of Congress in the act for opening Oklahoma was defective and that it was not feasible to effect townsite entries until such supplementary legislation could be had from Congress. In the absence of such legal prerequisites for the entering of townsites, the commissioner held that "any lands actually selected as the site of a city or town, or any lands actually settled and occupied for purposes of trade and commerce and not for agriculture, by bona fide inhabitants, are in a state of reservation from disposal under the homestead laws . . . which will operate to preserve the claims of the inhabitants of towns from interposing adverse rights of settlers until such time as they may be enabled to secure the right title to their lots under future legislation."

At Guthrie and Oklahoma City, 320 acres proved entirely inadequate for the people who came during the first few days to occupy the townsites. At Guthrie more than two full sections were occupied and possessed for townsite purposes. This necessitated separate and distinct town or city organizations, and as a result "East Guthrie," "South Guthrie," "West Guthrie," and "Capitol Hill" came into existence around Guthrie proper.

Under the original act opening Oklahoma to settlement, the homesteader could acquire title to his home, but not so with the townsite occupants. At Guthrie and Oklahoma City buildings were erected during the first year said to have cost their owners from $15,000 to $30,000, and yet the builders were without title or security to the ground. Such was the confidence of the settlers in ultimate justice and the rule of fair play in American communities. Justly it was said: "This is a wonderful compliment to the people who have settled this new territory in the heart of the American continent, and gives additional evidence of the capacity and genius of the American people to govern themselves, and in the absence of legalized government to form temporary expedients that settle controversies and give security to all."

This unsettled status of townsites in Oklahoma brought together, at Oklahoma City, November 19, 1889, a convention of delegates from various townsites, who drew up a memorial to Congress, signed by John T. Taylor, chairman, and Albert Reunie, secretary, in which the conditions were thus represented:[12]

"First. The opening of the Oklahoma country to settlement was attended by an unprecedented rush of settlers for land, one of the results of which being that nearly all lands now occupied for townsite purposes were sought to be settled by some one or more homestead claimants, who now are seeking to assert their claims thereto,

[12] Sen. Mis. Doc. No. 74, 51st Cong., 1st Sess. The memorial was referred, Jan. 30, 1890, to committee on public lands.

thus placing in controversy and dispute nearly all our townsite titles, and without legislative aid these townsites will in all probability be involved in litigation for years to come . . .

"Second. That all townsites now occupied in the Oklahoma country were, under the act of Congress of March 2, 1889, settled in pursuance of sections 2387 and 2388 of the Revised Statutes of the United States, which provide in substance that entries thereunder be made in trust by the corporate authorities of the town, or by the county judge of the county in which the townsite may be located. The absence, however, of both corporate authorities and county judges thus far in the Oklahoma country has precluded the making of entries under those sections, while the absence of territorial government and legislation renders the administration of such trusts impossible, and practically defeats the acquisition of title under the provisions of the aforesaid sections. . . .

"Third. We would also call attention to the fact that in several of our cities more than 320 acres in one body is now actually occupied for municipal purposes, while under the restrictions of the act of March 2, aforesaid, only 320 acres can now be entered as a townsite, thereby necessitating separate town organizations at these points."

The memorial recommended that precedence be given to townsite contests in the land department, that commissioners be appointed legally to enter the townsites, and that a court be established in Oklahoma to determine all contests over town lots.

At Oklahoma City, on May 14, 1889, a party of townsiters numbering some two hundred and fifty attempted to jump the claim adjoining the city on the north. Some fifty of the party were armed, and they were opposed by eight or ten armed men on the claim; a serious conflict was averted by the troops dispersing the crowd.

On May 21 the same party of townsiters, but then numbering some five or six hundred, made a raid on the claim adjoining the town on the west, and staked almost the entire claim into town lots. This party was ejected by a guard of a dozen men. The next day at 10 a. m. the claim was again covered by the same townsite party, who were driven off by a company of infantry. At 2 p. m., the same day, a third raid was made on this claim, when the invaders were removed by a company of infantry and a troop of cavalry.

June 5, Colonel Snyder telegraphed from Oklahoma City: "There appears to be a determination to occupy the quarter section immediately west of and adjoining Oklahoma City proper for townsite purposes, town to be called West Oklahoma. The quarter section in question is occupied by five different homestead claimants, who refuse to treat with the townsite parties and claim our protection. The troops have been used to remove townsite parties or jumpers on three previous occasions, but a more determined effort to take possession of the land in question is about to be made." His superior officer directed him to use the troops to preserve the peace and to keep the status peaceably established by actual settlers.

At the same time the newly organized Board of Trade took a hand in this discussion. It is evident that the movement was one of the early features of the factional contest that later divided the city. On June 5 the board selected J. L. Brown, C. P. Walker, C. W. Price, B. N. Woodson and G. W. Adams to negotiate with the claimants on the southwest quarter of section 33, township 12, range 3, with a view to

opening it for townsite purposes. This committee on June 7 addressed a communication to Colonel Snyder, claiming to represent, in the views set forth, "the virtually unanimous sentiment of the substantial business portion of the city."[13] The interference of the military could not be obtained, Colonel Snyder being instructed not to engage in these townsite complications further than to preserve the peace, and to allow the courts and civil authorities to settle the difficulties. However, a guard of three mounted men was posted on this claim to prevent further trouble, and maintained there until September 8.

Of the difficulties involved in the rival claims of homesteader, and of the use of the troops in preventing actual violence arising from these contests, Major Sanger said (November, 1889):

"Disputes between homestead claimants have occupied very much of the attention and time of the officers, who have been, and still are, appealed to daily for advice and assistance in settling these contests. There is no authority short of the court at Muskogee which can determine the respective rights in question, and the people are too poor to make appeals which involve long journeys and greater expense than they can undergo. In truth, for either of two or more claimants to go away would result in his being ousted by his rivals ere he returned; hence they turn to the only representatives of the government in this section who will, or can, afford them the least assistance. The action thus far taken is believed to be covered by the instructions received, which have in view the preservation of peace and protection of property. Were such arbitration as contestants have received at the hands of the military denied them, they would, without doubt, resort to Winchesters to settle their disputes. As it is, they submit to the suggestions made them with the understanding that their legal rights are in no wise prejudiced thereby."

On the receipt at Washington of press reports that homestead and town lot entries were being made illegally in Oklahoma, and that government officials and others temporarily in government employ were conniving at these frauds or themselves taking advantage of their office to secure choice parcels of land, the president and Secretary Noble immediately telegraphed to special department agents to make a thorough in-

[13] "There is at the present time a movement on foot to lay off and enter as a townsite the tract of 160 acres of land immediately adjoining the townsite of Oklahoma City on the west; this land is occupied at present by five persons, claiming the same as a homestead.

"The parties now most prominent in the effort to effect an entry of this tract for town purposes have on one or two occasions previously endeavored to enter upon the tract in large numbers to stake it into town lots, ignoring the claims of contesting homestead occupants, and have only been prevented by the presence of military force under Colonel Wade. They recently at a public meeting appointed a committee to wait upon the contestants to see if they could negotiate for a relinquishment of their rights, but have reported that they were unable to negotiate . . . and are now proceeding to register for the lots preparatory, as we think, to effecting an entry upon said land.

"However that may be, we are assured that if a committee representing the business men of Oklahoma City take the matter in hand and approach these contestants the matter may be amicably adjusted. We therefore ask that, pending these negotiations, the military force be made available if necessary to prevent a forcible entry upon said land. . . . It is our understanding that the men who have now registered are men without lots or claims, and it is our desire and intention that said registry be respected, and that said land if opened for a townsite, be occupied by settlers who are now without realty . . ."

[14] Sen. Ex. Doc. No. 33, 51st Cong., 1st Sess.

vestigation of the alleged frauds and irregularities. Most of the evidence[14] turned over to the interior department as a result of these instructions was sent in by J. A. Pickler, inspector of the public lands service, who had been on duty in Oklahoma for some time before the opening.

The reports of Inspector Pickler establish beyond controversy the principal fact that a great number of land seekers and speculators and townsite promoters were in the Oklahoma country before the time set for the opening, that the choice lots of the principal townsites were occupied and controlled by representatives of a corporation organized especially for that purpose long before the opening, and that through the connivance or indifference of the land-office and military authorities these "sooners" were enabled to secure the choicest rewards of the rush by circumventing or openly disregarding the rules of the game as played on the 22d.

Inspectors McBride and Pickler reported on April 27, from Guthrie: "About three hundred people were in and about Guthrie before 12 p. m. on the 22d inst. Two carloads arrived upon Sunday evening, and many were here upon Saturday; a few deputy marshals were in and about the town limits for a week or two previous to the legal opening of the territory. This body of men was composed of deputy marshals, land officials, railroad employes, railroad stowaways brought here in freight trains, deputy internal revenue collectors, and a host which cannot be classified."

John I. Dille, the register of the Guthrie land office, in an official reply to charges against his management of the office at the opening,[15] gave the following account of the establishment of the Guthrie land office and the first few days' developments in Guthrie:

"We were detained at Arkansas City with our supplies until Saturday afternoon, April 20, by the failure of our furniture to arrive and by the failure of the carpenters to have the office building completed. It was nearly dark Saturday evening before we arrived at Guthrie. . . . When we arrived . . . hundreds of people were here and from that time on the number increased. Who were or were not officials, we did not know and had no means by which we could find out. The people as a rule brought their tents with them to sleep in. They were pitched without any reference to streets, lots or alleys. The first few days Guthrie was a city of several thousand without a street or alley, and with tents covering almost every available space of ground. . . . Soon after the 22d the city authorities made a survey of the city, located lots, streets, alleys, etc. Several different persons were frequently on the same lot, many were in the streets and alleys. The city authorities compelled those in the streets and alleys to vacate the premises, and they all had to seek new locations. The claimants for each lot have lessened in number, by mutual concessions, abandonment, etc."

The records of the land office, in the case of Guthrie, reveal that the townsite and the best land around it were entered at noon or a few minutes after that hour on the 22d of April. The east half of section 8, town 16, range 2, was filed on at 12 p. m., by Mark S. Cohn for the Guthrie townsite. The first homestead entry of the day was also made by Cohn, being the northwest quarter of the same section 8. The entries of Cohn and Jehu E. Dille (a relative of

[14] Included in the Pickler reports to the interior department.

the register) on the first day included seven quarter sections about the original townsite.

The "following state of facts at Oklahoma City" was reported by Inspector Pickler: "The Seminole Town and Improvement Company, a corporation of the state of Kansas, as is claimed, of which J. E. Frost, of Topeka, who is land commissioner or connected with the land department of the Atchison, Topeka and Santa Fe Railway Company, was the leader, and who claims to be the general manager of the corporation in Oklahoma territory and who did manage for the company at Oklahoma City, and L. H. Crandell, secretary of said company, together with United States Marshal W. C. Jones and a syndicate from Newton, Kansas, who it is believed is a part of or interested in the Seminole Town and Improvement Company, entered the present townsite of Oklahoma City at or before noon of April 22, and secured for themselves and friends a large number of the best and choicest lots in said town."

In corroboration of this, the statements of two men employed at Oklahoma City before the opening were obtained as evidence by the inspector. The first, on May 5, witnessed as follows: ". . . . I have worked at this place since the 8th of last August. I was in the employ of J. H. McGranahan, who was the postmaster, and kept a boarding house prior to the 22d of April. . . . I was here on the 22d day of April, before 12 o'clock noon, and saw men surveying or staking ground in the present townsite of Oklahoma before the hour of noon. There were as many as five or six in the party. . . ." Another witnessed that "there were men surveying on the present site of Oklahoma City as early as 10 o'clock a. m., on the 22d day of April. . . . They carried a chain and compass. . . . Many lots were staked along what is now Main street, with stakes having papers fastened to them, before noon of that day."[16]

In summarizing the situation, with special reference to Guthrie and Oklahoma City, Major Pickler wrote, on May 8, from Guthrie: "The people feel that Marshal Jones, a resident of Kansas and not a bona fide settler, with his deputies and with influential parties in the Atchison, Topeka and Santa Fe Railway Company, and other speculators, unfairly gained entrance to the forbidden territory and fraudulently gained great advantages over the honest settler, and thus secured the most valuable property, while those who obeyed the law are beaten by the law-breakers in the race. . . ."[17]

The establishment of the town of Edmond, and its experience at the hands of

[16] The Seminole Company planned to derive its revenue by issuing to settlers certificates for the lots included in the Seminole plat. It was said that $25 was the fee first proposed for each certificate, but $10 was the amount paid for the one herewith reproduced:

"For value received the Seminole Town and Improvement Company hereby sells and relinquishes to Arnold Brandley all right, title and interests that it now has or may hereafter acquire in and to lot No. 4 of block No. 19, in Oklahoma City, Ind. T., in accordance with said town company's plat and survey thereof, and this certifies the said Arnold Brandley is this day in possession and the occupant of that said lot.

"THE SEMINOLE TOWN AND IMPROVEMENT COMPANY, By ... H. Crandell, Secretary.

"April 27, 1889.

"[Seal.]"

[17] The matter of legal titles to city lots, of lot-jumping, and the "certificate" system, was the subject of a detailed message from Mayor A. J. Beale to the council on December 14, 1889. He said: "It is clear to my mind from the cases on the subject that the laws of the United States intend town lots on the public domain to go to the

two rival promoting companies, well illustrate the methods pursued by the various townsite companies. The story is told by Inspector Pickler in a report dated May, 1889. "I proceeded to the town of Edmonds . . . on the afteroon of Saturday, the 11th [May]. I called a meeting of the citizens in the afternoon, representing the different interests, from which I learned that before noon of April 22d a party of surveyors were at this point, did some surveying in forenoon of townsite, and continued Monday afternoon and for some two or three days afterward. This survey was in charge of a Mr. Shoop, from somewhere in Kansas, and was made for the Seminole Town Company. . . . This company had a blue-print Monday afternoon, 22d, of the town of Edmonds, as they laid off and surveyed the same, had certificates similar to the ones used at Oklahoma City . . . and asked settlers $25 a lot.

"Another survey was made on the same land . . . on Monday afternoon. . . . This company invited settlers, but put the lots up at auction. . . . The surveyors for the Seminole Company . . . about the time of the telegram from Commissioner Stockslager to the undersigned, ceased to offer to sell lots and abandoned the site. . . . Settlers, however, arriv-

actual settler in good faith. 'An occupant within the meaning of the townsite law of Congress is one who is a settler or resident of the town, and in the bona fide actual possession of the lot at the time the entry is made. One who has never been in actual possession of a lot cannot be said to be an occupant thereof. The occupancy may be for residences, business or for use.'—21 Pac. Rep., p. 818. . . .

"The principal ordinances of Oklahoma City on this subject are in conflict with the laws of the United States. Ordinance No. 3 makes certificates conclusive evidence of compliance with the law of settlement. The holder of a certificate of a vacant lot is conclusively presumed to have complied with every requisite of the law of the land. And ordinance No. 14 makes it a misdemeanor for anyone to question by claim the validity of his title, or to attempt to occupy such lot. These ordinances are in conflict with the letter and spirit of the laws of the United States, and persons undertaking to enforce them are making themselves guilty of the violation of those laws. It is needless to say they encourage speculation, false swearing and fraud. The pretense that a certificate conveys guaranty of title is a specious conceit. The only possible title at present is that of actual possession or occupancy for use. . . . Our city council cannot make new and extraordinary regulations for acquisition of town lots. It may memorialize Congress or offer suggestions to the secretary of the interior, but until such regulations are provided by competent authority, they will hardly be considered binding by the land office or the courts. . . .

"It appears, therefore, that so-called lot-jumping is reducible to one or the other of these divisions: 1st, where actual bona fide possession is assailed; 2d, where a pretended title to vacant property is sought to be impeached. In the first class of cases my duty as a peace officer is clear enough, and I shall use the power at my hand to swiftly interfere and punish offenders. The second is of cases illegal in their inception, and to undertake to defend them would be a flagrant abuse of power and contrary to the laws of the United States."

The mayor also recommends in this message the abolition of the ordinance providing for the payment of what he deems an excessive fee for these lot certificates, and also the repeal of the ordinance that compelled lot-claimants to submit to arbitration and award rather than to regularly constituted courts. He then continues: "Had our settlement been left to ordinary usages and the laws of the land, nice distinctions concerning certificates and their value would never have been heard of. . . . By this time titles might have been tolerably well settled, and if adjudication had to be made, temporary courts with the ordinary American system of trial by jury, instead of secret award, would have more readily gained the confidence of the people and litigants. Our sister city of Guthrie, I am informed, has found the adoption of these courts an available expedient, and if in the opinion of the council any great delay may intervene before the establishment of constitutional courts, I should gladly recommend the creation by election of these popular tribunals, with jurisdiction to try questions of actual possession, but not title to real property."

ing and being displeased with the action of the parties who auctioned the lots under the second survey, began settlement on lots as surveyed and staked by the Seminole Company, where they could secure lots free. . . .

"These surveys were in conflict, the streets and alleys of one being blocks and lots of another, and houses were built accordingly in the street as claimed by one party under their survey, and this state of affairs having continued for several days had engendered much ill feeling. . . . I insisted on a compromise, and that they must agree and proceed under one survey. The company making the second survey had captured the organization on Monday night, 22d, and elected a mayor and council, and had filed a declaration as to their site in the land office.

"The settlers claimed, many of them, that the election of this mayor and council was quietly done, and that many of them, although present in the town, knew nothing of the election." Partly with the advice and assistance of the inspector, a compromise was arranged between the factions by which the mayor and council should hold office forty days from their election, when a new election should be held. A new survey was to be made, a sort of compromise of the other two, and all buildings were to be adjusted to the new boundary lines.

A final word on the Oklahoma townsite problem was spoken by the supreme court of the United States on February 20, 1905, when that court reversed the ruling of the Oklahoma district and supreme courts in the McMaster case. When the agreement was reached between the Seminole and Citizens' surveyors (see J. L. Brown's narrative) and as a consequence Grand avenue was moved from its course as first marked out, the new street ran directly over a line of lots which had claimants upon them, Frank McMaster being one. As a result of this revised plat, to quote the court's opinion, "the parcel of land claimed by the plaintiff was thrown into the street called Grand avenue. The plaintiff did not consent, but objected to the second plat, and has never consented thereto or acquiesced therein. He was, by the city authorities, forcibly removed from the parcel of ground selected by him, and has since that time been forcibly kept from the occupancy thereof."

The court reviewed the facts that no practicable provisions existed in law for the entry of townsites in 1889, that the law providing for trustees to enter the townsites and execute deeds to the occupants was not passed until May 14, 1890, over a year after the town was settled and laid out. The rest of the opinion has direct bearing on some of the questions at issue among the citizens:

"It seems therefore plain that a mere agreement among a portion of the people selecting lots for or in a projected townsite . . . did not and could not vest an absolute and unconditional title in the persons who thus selected such lots. The persons going on the land on that date, and under the circumstances then existing, did not have any law for the vesting of title to a lot as within a townsite, by the mere selection of land at that time. There was general confusion, and there were thousands of people entering the territory embraced within the proclamation on that date." The selection of lots was not final, nor the first plats of the town final or conclusive. ". . . there was no absolute right to any particular lot, as it was subject to future survey. . . . When, there-

after, the trustees, under the statute, made a survey of the land into streets, etc., or approved a survey already made, by which the plaintiff's lot was placed in the public of the city, it was his misfortune, where all had taken their chances, that he should draw a blank. The approval of a survey by the trustees, which placed this lot in a public street of the city, gives the city the right to the possession of it, and to keep it open as such public street. The plaintiff, not being an occupant of the lot at the time that the trustees made entry of the land, nor when the conveyance was made to the trustees by the government, was not one of the parties included in the statute, which directed the entry for the townsites to be made by the trustees 'for the several use and benefit of the occupants thereof.'"

The preceding account of events connected with the founding of Oklahoma City and the establishment of provisional government is drawn mainly from the official reports used in the investigation of the subject by Congress. In a matter involving so many diverse interests and factions, where order was evolved slowly out of the confusion attending the first settlement, it is, evidently, difficult to render, with exact justice to all, a straightforward account of the history of those first months. The greater part of the evidence used above is clearly unfavorable to the cause of the opposition party, or "Kickapoos," as they were generally called. In order that this history might serve as an impartial medium for the facts pertaining to this subject, a discussion of the Kickapoo side has been sought. For this purpose the author has requested Mr. J. L. Brown, a lawyer and resident of Oklahoma City from the beginning, to contribute a discussion of four phases of Oklahoma's early history. Mr. Brown was a "Kickapoo" and one of the most active opponents of the party in control of the city government during the early months. While frankly partisan in this respect, Mr. Brown describes conditions as he saw them with careful regard for historical accuracy, and his standing in the city and state entitles his views and opinions to full weight in describing the troublous days of early Oklahoma. His account is as follows:

J. L. Brown's Narrative.

I have been requested to furnish for historical preservation what I may know and may have seen touching the four following matters of general interest to the people of Oklahoma:

First. History and incidents attending the first opening of public lands for settlement in what is now Oklahoma.

Second. To explain and preserve the facts and transactions which cause so many jogs and crooks in the streets of Oklahoma City.

Third. To explain the causes and detail the facts which led to what was known as the Seminole and Kickapoo wars in Oklahoma City.

Fourth. To give a detailed account of the struggle in the first legislative assembly for the purpose of removing the capitol of the territory from the city of Guthrie.

I

No reader of history can understand these matters without having presented a statement of the laws and conditions existing on and after April 22, 1889.

For many years before April 22, 1889, and up to May, 1890, what is now Oklahoma was then the Indian Territory. By treaty made just after the close of the Civil war with the five civilized tribes, who formerly held the whole of the Indian Terri-

tory, the Indian tribes ceded back to the United States all that portion of what is now the state of Oklahoma, lying in what afterwards became the territory of Oklahoma, but such ceded lands were to be used by the United States for the purpose of settling other friendly Indian tribes thereon and were not to be opened to white settlement.

Under this agreement the United States settled on these ceded lands various Indian tribes, and gave to each of said tribes a particular and well defined reservation, such as the Kickapoo, Sac and Fox, Cheyennes and Arapahoes and others.

These reservations given to other Indians moved into the Indian Territory under this treaty did not quite occupy all the lands embraced in that part of the Indian Territory so ceded back to the United States and which afterwards became Oklahoma Territory, but left a piece of land, then known as unassigned lands, which embraced that part of Cleveland, Oklahoma and Logan counties lying west of the Indian meridian, and that part of Canadian and Kingfisher counties lying east of a line very near where the Rock Island Railroad is now located, and also embraced that part of Payne county lying south of the Cherokee outlet.

This fact led to the organization of what was known as the boomers, led at first by Captain Payne and after his death by Captain W. L. Couch. These men got the title of captain by the boomers electing them as captains. These boomers conceived the idea that they had the right to settle upon and homestead these unassigned lands, but the government of the United States held that, under the treaty before named, no person could be permitted to settle upon those lands except Indian tribes, carried and settled on there by the United States.

Acting on this belief the boomers, under the lead of their captains, repeatedly invaded, settled upon and laid out towns on these unassigned lands, and were as often removed by force by the United States military authorities. After being thus ejected repeatedly the boomers camped around in the southern edge of Kansas. All this kept up such an agitation that these unassigned lands were prominently called to the attention of the public and led to a fight in Congress to open the same for settlement.

The result of all this was that the United States, by treaty with the Seminole and Creek Indians, to whom these unassigned lands originally belonged as a part of their old reservation, purchased from those tribes and obtained title to all of their lands lying west of what afterwards became the eastern line of the territory of Oklahoma.

This, together with the treaty made with the Cherokees, removed from all the lands that afterwards became old Oklahoma, all claim of the five civilized tribes thereto, but still left a large portion of Oklahoma land encumbered by treaties made with these other Indians, who had been brought in and settled on these lands by the United States, and these lands so settled by these imported Indians could not be opened to white settlement until the claims of these Indian settlers had been extinguished, but these unassigned lands then became the public domain of the United States, unencumbered by any Indian treaty whatsoever, and were by Congress opened to white settlement in 1889.

The trouble caused by the boomers rushing upon these lands before they were opened to settlement led to the provision in the acts of Congress opening these unassigned lands to settlement of a clause declaring that if any person should "enter

upon and occupy" any of these lands prior to the date of the opening thereof, that such person should forever be disqualified to take title thereto. This was known as "the Sooner clause," and was the one which afterwards made so much trouble in Oklahoma.

The foregoing explained why such a small portion of Oklahoma was opened for settlement in April, 1889, and as the claims of one Indian tribe after another was extinguished to the lands upon which they had been settled by the United States, and were not all extinguished at the same date, the remaining lands were opened to settlement in patches or small tracts as fast as the rights of these imported Indians could be extinguished, and this led to many "openings," as they were called, of public lands to settlement in Oklahoma.

President Harrison proclaimed the opening of the unassigned lands to settlement on April 22, 1889, and placed in that proclamation the statutory provision against any person "entering upon or occupying said lands" before the date of opening at noon on April 22, 1889.

This led to people gathering in large numbers around the edges of these unassigned lands waiting for the opening at noon on April 22.

James B. Weaver, ex-congressman of Iowa, was in Oklahoma after the issuance of the proclamation and prior to April 22, 1889. He was a member of the Congress that passed the bill opening these lands to settlement, and worked very hard for the passage thereof.

There was great and serious dispute as to the meaning of the words "Enter upon and occupy" contained in both the bill and the proclamation opening these lands. One construction was that in order for a settler to be disqualified under that act he must do two acts before noon of April 22, 1889—first, enter upon these unassigned lands, and, second, *settle* upon some selected quarter section of land or town lot, and that the bare entering upon the land would not disqualify, and the persons holding to this view contended that so long as they did not settle nor go upon the quarter section of land or lot intended to be taken that there would be no disqualification, while others contended that any entry into these unassigned lands, and especially being within the borders of them at or before noon of April 22, worked a disqualification of the person so entering. Congressman Weaver and Captain Couch adhered to the first view, and all these old boomers followed them blindly, as did many, many other persons, and as a result nearly every one of the old boomers, along with thousands of others, were in these unassigned lands before noon of April 22, and near by the lands or lots that they intended to take, and with which they had become familiar in boomer days, while thousands of others, adhering to the latter view, remained around the borders and outside of the land until noon April 22, and then rushed into the country pell-mell, seeking claims or lots wherever they could be found. On the borders in waiting were many persons well mounted who knew the country thoroughly, knowing every quarter section and just how to run to get to it, while others were indifferently mounted, and many not mounted at all, and who knew nothing about the country nor the best paths to be followed in order to get to good lands; knew nothing about where the school lands were located, and were at a tremendous disadvantage as against the parties thus well mounted and knowing the country. These strangers knew in advance that they stood no chance whatever of getting prop-

erty as against their well informed competitors.

To these uninformed persons on the borders, the law said, in effect: "Be obedient unto my mandates and you shall, for such obedience, not have an acre."

These uninformed men at once sought to even matters up, by slipping into the country, and getting in such a position that they might possibly get something in the scramble, and thousands of them did it. The 22d of April fell on Monday. On Sunday morning before the country opened, thousands of people were in the camps on the borders. By Monday morning, fully one-half of them were gone, and were evidently within the prohibited lands. At that time, there were few roads in the country, and no bridges, and through the country were running many streams which could be crossed only at certain points, and this being true, the stranger could make no headway whatever, as against the person who knew every pathway and every ford, and every piece of bottom land, and it was impossible to keep these uninformed persons, who knew and thoroughly appreciated their disadvantage, to do otherwise than seek to even the matter up by getting within the country beforehand.

I saw thousands of these uninformed persons, who remained without, until the grand rush was made at noon, and I do not think I have ever met or heard of one who obtained a tract of land or lot of any value, by settlement thereon.

Many of them bought off illegitimate settlers, after the country was opened, and thus obtained valuable lands and lots. As certainly as a piece of land was of excellent quality, or a lot of great prospective value, just so certainly the first settler thereon was what was afterwards known as a "sooner." Immediately after the opening thousands of these persons who had been within the land before noon, boldly declared it but asserted that they had not settled upon any tract of land or lot before noon.

In the course of time, the land department decided that any person who had been within these unassigned lands prior to noon was disqualified, and at once silence fell on the lips of those who had before so loudly boasted of the fact that they had entered before noon, but had not occupied, and at once unlimited perjury took the place of such boastings, and unlimited numbers of witnesses swore in rows, that they had not been within the unassigned lands before noon, and swore in bands for each other, and even sent innocent men to the penitentiary, on conviction for perjury charged against them, and one of the most valuable quarter sections of land, now an addition in the heart of Oklahoma City, was saved to sooners by thus sending two innocent men to the penitentiary. By this means, contests against that quarter section were defeated. Circumstances pointed strongly to the fact that United States officers, sent to Oklahoma to prosecute and break down this criminality, became remiss in their duties in consideration of great values being passed to such officers, and as a monument tending to support such charge, there today lies in one of the most valuable portions of Oklahoma City, and completely surrounded by beautiful homes, forty acres of unplatted lands, and many were the valuable lots, the titles to which afterwards turned up in the names of the wives of such officers.

The results were, as they almost always are in such cases, that conflict of interests led these men who were thus falsely swearing in land contests, into difficulty with each other, and led to quarreling, and

finally to confessions, and the results were that large numbers of them found their way into the penitentiary, and many others escaped by relinquishing all claims to the lands and lots in Oklahoma.

Many of those who were thus sooners, saw the storm coming, and relinquished their lands or lots in such a way that they were taken and proved up, by brothers, sisters, fathers and mothers, or friends, and in many cases, after being so proved up, this relative or friend conveyed the property to the sooner, while in scores of other cases the party who thus proved up forgot the sooner, or quarreled with him and kept all he got, and left the sooner in mourning and in rage.

The sooner, while thus in rage, in turn gave away some other sooner, and would swear that if he could get nothing, no other sooner should have anything. In this way the land titles to Oklahoma were settled.

The real conflict arose and was born when the boomers began to go into Oklahoma in advance of time, under the construction of the words "enter upon and occupy," as promulgated by Gen. James B. Weaver, of Iowa, and by the slipping in of persons not boomers, under all kinds of pretexts, such as working for the railroads, and as deputy United States marshals, teamsters, and by any other device or excuse, that would permit the party to remain within these unassigned lands, and also the slipping into said lands by so many other persons, and then the coming in afterwards of those who left the borders on time, and finding everything of value grabbed in advance of their coming.

Nothing but conflict could come from such a condition of affairs, and the wonder is, that the results were not more troublesome and serious than they really were.

It is due to these boomers to say that many of them were thoroughly honest and truthful men, and always and under all circumstances told and swore to the truth, and they were, of course, very dangerous men on the witness stand, to the dishonest ones who sought to save their lands or lots by false swearing, in contest trials.

Another very fruitful source of trouble arose from the fact that these strangers knew nothing about where the section lines were, and knew nothing of what were or were not school lands. As a result, it often turned out that several settlers were on the same quarter of land, and the question arose as to who first settled, and then they quarreled and commenced testifying against each other, sometimes truthfully, and many times untruthfully. Many times they adjusted their own difficulties, by all kinds of trades, purchases and adjustments.

The townsites had all been surveyed by sooners or town companies, but the streets were shown only by some frail mark, and when these people came in from the borders, directly after noon, they rushed in thousands all over the lands lying around the railroad stations, and were in inextricable confusion, and settled almost any number on the same lot, and on what afterwards became streets, and this too afterwards led to an enormous amount of litigation in the adjustment of these claims.

Many of the persons who came in legally from the borders, on April 22d, were angered at the fact that these sooners had rushed in beforehand and seized the valuable property, and they defied and rushed upon the property taken by the sooner, and by litigation in the land department afterward obtained some of the most valuable property in Oklahoma.

In this way Captain Couch, and his father and their heirs, lost two of the most valuable quarters now covered by Okla-

homa City, and fourteen other claims, lying immediately around the city, were lost to the sooner in the same way, and the value of these sixteen claims, today, would exceed the million dollar mark, and if the improvements now upon these lands were counted, the value would be several millions. The result of all this was a vast amount of litigation in the land departments, and the courts, and I think I can safely say, that there was more litigation than was ever before known in the United States in the same length of time and over the same amount of land, in Oklahoma, over lands opened in the manner they were at first opened in Oklahoma.

On account of this serious trouble, the government abandoned that method of opening and resorted to a distribution of the land by lot. The Cherokee Strip was the last piece of land opened in this racing manner, and the same trouble was experienced there that had been previously experienced in old Oklahoma.

This in brief shows the general manner in which Oklahoma was opened to settlement, and the incidents that followed the same, so far as acquiring title to the lands are concerned.

II.

The following is the explanation of the causes which led to so many jogs and crooks in the streets of Oklahoma City, and in order to have this better understood, it will be necessary to briefly state some of the laws, relating to townsites of that time.

The act of Congress, opening these unassigned lands to settlement provided that the secretary of the interior might, after the proclamation, and not before, permit entry of lands for townsites, under section 2387 and 2388 of the Revised Statutes of the United States, but that no such entry should embrace more than three hundred and twenty acres of land, equal to a half section.

The laws of the United States, opening Oklahoma, provided that the lots and townsites, in Oklahoma, should be for the use and benefit of the occupants thereof. Very soon a dispute arose over the meaning of that law. One party contended that an occupant was an actual dweller in Oklahoma, living upon or using the lots; the other party contended that anybody could be an occupant who put improvements upon the lots, or leased them out to others, while the incorporated townsite companies claimed that the incorporated company could occupy the whole townsite, and sell it off in lots, as had been done in Kansas.

Prior to the opening, a body of men, of whom Sidney Clark, ex-member of Congress, and Captain Couch, were two, formed a corporation in the state of Kansas, and there took out articles of incorporation, for the purpose of entering and selling townsites in Kansas and elsewhere, and the name of the corporation was, "The Seminole Townsite and Improvement Company," and these parties, with their adherents, afterward became known as the "Seminoles."

Another company was formed at Colony, Kansas, and was afterwards known as the "Colony Crowd." This latter crowd did not take out articles of incorporation, but were advised by counsel in Washington to enter the territory in the afternoon of April 22d, and rush to the lands they desired, and at once hold an election, and elect town officers, and then have those officers enter the townsite. It seemed that neither the Seminoles nor the Colony Crowd had any

knowledge whatever of each other's existence, until they met on the townsite in Oklahoma City.

Prior to noon on April 22, 1889, the Seminole incorporators were on the grounds, on the track and about the depot of the Santa Fe Railway, at what was then "Oklahoma Station," and had with them the plat of their townsite, as they intended to lay it upon the ground, and as the evidence in many cases abundantly showed, had laid off the land in streets and squares prior to noon, and as some claimed, did the surveying in the night-time, so as to have everything in such a condition, that they could promptly seize the townsite instantly at 12 o'clock, on April 22d.

The land they intended to take, cornered at where Reno avenue now crosses the Santa Fe Railroad, and ran west on the section line, in the middle of what is now Reno avenue, one-half mile, to what is now Walker street, and ran north on Walker street, that being a half section line, to a point very near what is now the corner of Tenth and Walker streets, and ran east from that point to the Santa Fe track, and then down that track to the place of beginning. In going from this starting point on the section line, where Reno avenue now lies, the Santa Fe road ran almost due north, bearing a little to the east. Either intentionally, or by mistake in their hurry, the Seminoles failed to run their east and west streets due east and west, but ran them at right angles to the Santa Fe track, which caused all of their streets running west from the Santa Fe, to bear a little north of a line running due west.

The Seminoles' survey located Main street where it now is, and located a street south of Main street, which they named "Clarke street," and two other streets south of that, the names of which I have now forgotten, and located Broadway, and Robinson, and Harvey and Hudson streets, where they now lie, from Grand avenue north. And also located First to Seventh streets as they now lie. The Seminoles also caused all the lots lying along Broadway to front on Broadway, except the lots at the corner of Main and Broadway, and the lots at those four corners were so laid that they fronted on Main and ran back one hundred and forty feet, along Broadway, to an alley, so that from the alley south of Main street to the alley north of Main street there were no lots fronting on Broadway.

Promptly at noon, the Seminoles rushed on to this townsite, with a lot of other sooners, and seized all the lots, and claimed to take the whole townsite, by occupancy. They were mostly settled, however, along Main street and on Broadway north and south of Main street for a distance.

The Colony Crowd also had their plat prepared to cover this same land, but that crowd remained on the South Canadian river until noon of April 22d, when they rushed pell-mell to the same townsite, and at once erected a large tent at a point near where the city jail now stands. This Colony Crowd were unquestionably legal and qualified settlers, as they had not entered the unassigned lands prior to the hour of noon.

This crowd began to settle at once according to their plats, which did not at all fit the Seminole plat or survey. In addition to these, there came as much as ten thousand other people, from the borders and on the trains and every other way. These men were all strangers to each other, and while the Seminoles and the Colony Crowd knew each other, yet they were both unknown to this rushing crowd, and this rushing crowd ran all over the townsite, grabbing whatever they could find, and

paying no attention to the surveys of either one of the other crowds.

Under these circumstances, the Colony Crowd opened a voting booth, and invited everybody to come to the election, and every fellow who wanted to, voted, not knowing or understanding what it all meant, and as a result Rev. Mr. Murray, of Baldwin, Kansas, was elected mayor, and a full set of city officers was chosen from the Colony Crowd, the Seminoles taking no part whatever in the election.

It must be said to the credit of the Colony Crowd that the Rev. Mr. Murray and all the aldermen chosen on the afternoon of the 22d, were conscientious and honest men, and were trying to do, and as experience afterward showed, did do everything they could, justly and honestly towards the settlers. Their plats of the city were freely shown, and large numbers of persons, not Colony men, settled on the lots as shown by the Colony plat.

The Colony plat also had a Broadway street, running north and south, and made all lots front on Broadway, thus putting their Broadway lots at the corner of Main street directly across the Seminole lots at the same point.

On Tuesday morning the 23rd, all was confusion. The Seminoles had carloads of houses, on the cars at the Santa Fe depot, the houses being made of boards, and all exactly alike, and so cut that any board would fit into any house at the point at which it was intended to go. These afterwards came to be known as "Seminole Shanties." During the forenoon of the 23rd, the Seminoles were actively engaged in getting these shanties on to the best lots in the town. It was then found by the location of these shanties, that their Broadway street was not in the same place occupied by the Colony Broadway street, and it was also discovered that the streets of the Seminoles did not run straight east and west through the city, while the Colony streets did so run. Under the circumstances, a large public meeting was called in front of the Colony tents, to which everybody was invited, and everybody who desired permitted to participate. That meeting chose a committee to properly survey the city, the surveyors to be accompanied by one person from each state which could furnish a representative, and that committee was to adjust the settlements on lots, so far as it could be peaceably done.

The surveyors began their survey that day, and were accompanied by the committee so chosen. The surveyors started at the government corner on the Reno line near the Santa Fe track, and ran directly west in what is now Reno avenue, and established that street and named it Reno avenue.

They located their north and south streets at the points where the streets now run north from Reno avenue, divided off the lots and adjusted them among the settlers, without trouble, and came up and laid out California avenue, and likewise laid out what is now Grand avenue—these three streets running straight east and west. This was afterwards known as the "Citizens' Survey." Their streets running north from Reno avenue did not quite meet the streets as fixed by the Seminole survey, and Clarke street, so called by the Seminoles, was fifty feet (50) farther north than the Grand avenue, as fixed by the Citizens' survey. The Citizens' survey destroyed Clarke street and established Grand avenue where it now lies, and gave that street that name.

This of course took fifty feet off of the north part of the lots lying on the south side of Clarke street, and left the north half of what had been Clarke street to be

lots. All the lots from Reno avenue up to Clarke street were almost all peaceably adjusted, and there was never thereafter much litigation, except over those at the corner of Grand avenue and Broadway. [See decision on McMaster case on previous pages.]

When this point was reached, it became very evident, that if this Citizens' survey and adjustment went on, that Main street too would be moved about fifty feet south of the Seminole location, and made to run due east and west, and that Broadway where it crossed Main, would be moved west about half of its width, as would all the other north and south streets.

This of course brought the Citizens' survey and crowd immediately in conflict with the Seminoles, and it became clearly apparent that the conflict was going to result in violence, unless some adjustment could be made. The Seminoles were freely declaring war and their intention to fight for the lots they held, and their streets as located, and things looked very threatening.

To avoid this threatened trouble it was finally proposed, and the proposition accepted, that each of the "Crowds" should appoint a committee of adjustment, which was done.

This committee finally agreed that the Citizens' survey and adjustment should stand and be adopted, including the lots on the north side of Grand avenue, and that it should there stop, and that the Seminole survey should remain along Main street and north, including all lots on the south side of Main street. This of course left the Seminoles' streets where they had been located by the Seminoles, and left the Citizens' streets where located by them, and in as much as the north and south streets did not squarely meet, the jogs were placed on Grand avenue, and this accounts for the jogs in the north and south streets at that point. In as much as Grand avenue had been moved south fifty feet, the distance between Main and Grand avenue was greater than the length of two lots and an alley; and in as much as Main street did not run straight west, but bore a little to the north as it went west, while Grand avenue did run straight east and west, it left a space of ground, between the two streets, not covered by lots fronting on either Main or Broadway. At Broadway this strip was fifty feet wide, and widened as it went west, by reason of the fact that Main street and Grand avenue were not parallel. Consequently this strip of ground was wider at the west side of the town plat than it was at the east side. To overcome this difficulty, and in order to place an alley at the back end of the lots fronting on Grand avenue, and also at the back end of the lots fronting on Main street, two alleys were put between these two streets, and the space between those two alleys was laid off into lots fronting on the north and south streets, being two narrow lots at the east end, and three wide lots at the west side of the town.

In as much as all the lots in the city were one hundred and forty feet deep, and the distance between the streets running north and south was four hundred feet, it left pieces of vacant ground in each of these squares, between the back ends of these lots fronting on the north and south streets, and between these two alleys. This vacant ground was afterwards retained by the city, and is now used for city purposes, the old jail now occupying one of them.

The fact that the Seminole streets, before named, do not run straight east and west, and in as much as the streets in the additions, since laid out on the east and west

side of Oklahoma City, do run straight east and west, there appears a bend in each of these streets, as they extend east or west through these additions, the bend being at the east and west lines of the old city plat.

The north eighty acres of the three hundred and twenty acres taken for Oklahoma City, was lost to the city, by being homesteaded by one Frank Gault.

As only three hundred and twenty acres could be taken for one townsite, and as there were so many people here, a crowd composed largely of people from Texas, organized what was known as the South Oklahoma townsite. This crowd laid off and platted a quarter section, immediately south of Reno avenue, and surveyed their streets straight east and west, and hence there are no bends in those streets when extended through additions, but their north and south streets did not meet the north and south streets made by the Citizens' survey, and hence these jogs in the north and south streets made on Reno avenue.

By and by Congress passed an act (May 14, 1890) appointing a commission to enter, plat and deed the lots in these townsites, but when that commission arrived on the ground they found so many buildings up, that they deemed it unwise to disturb these crooked surveys, and hence they remain with us to this day.

The Seminoles made another mistake, and made their plat too long east and west, so that it reached beyond the half section line, which is in the middle of Walker street, and got Walker street too far west and over on to what afterwards proved to be the "Higgen's Homestead." The Citizens' survey and the Texas survey got Walker street in the right place, and in as much as the Citizens' survey stopped at Grand avenue, it left Walker street clear outside of the city, from Grand avenue north to Fourth street. From there north, one-half of Walker street was given to the claim-holders lying along its west side, hence the north part of Walker street is very narrow from Third up to Tenth street.

As to the land west of Walker street, the Rock Island Railroad, formerly called the Choctaw, and the Frisco Railroad, were all located and owned their land before that part of the city lying west of the old city limits was platted at all, and these companies would permit no cross streets, save and except at the points where they are now located, and this is also true of the north and south streets east of the Santa Fe, and there are only such streets there as the railroad company would permit, and this was afterwards assented to by the city council.

One Frank Dale owned forty acres of the land lying north of the Gault addition, and in as much as the Santa Fe Railroad does not run due north, but bears a little to the east, Broadway, at the point named, was so far from the Santa Fe, that it made a very long block between Broadway, extended north, and the Santa Fe, and thereupon Dale divided Broadway, and bent it round to the west, and put another north and south street between it and the Santa Fe. The north line of Dale's land was at Thirteenth street, and the parties owning the land north of Dale's, expecting Broadway to come straight north, laid Broadway through their land, just where it would have been, if Dale had not bent it to the west, and hence that jog on Thirteenth and Broadway.

The foregoing accounts for all the material jogs and crooks in the streets of Oklahoma City.

III.

In response to a request for an explanation of the causes, and for a detail of the facts which led to what was known as the Seminole and Kickapoo wars in Oklahoma City, I will refer, without repeating, to much that has been said about the location and platting of Oklahoma City, and refer to the law of Kansas, which permitted people in that state to procure government townsites, lay them out and sell the lots at a profit. The Seminole Townsite and Improvement Company had, before the opening of these unassigned lands for settlement, taken out a charter as a corporation, in Kansas, for the purpose of laying out and selling townsites, and had come to Oklahoma City, and were on the Santa Fe Railroad right-of-way, and at noon rushed in and seized that part of Oklahoma City, bounded on the east by the Santa Fe Railroad track, on the south by Reno avenue, and on the west by the line in the middle of Walker street, and on the north by what is now Tenth street, but were prevented by Gault's homestead entry, from holding farther north than Seventh street.

In about an hour and a half or two hours, thousands of people rushed in from the outside, and heavily loaded trains brought settlers, and they all rushed on to these townsite lands, which was then just a patch of prairie grass, and as they did not know the Seminoles by personal acquaintance, they ran all over the ground and for a quarter of a mile outside of it, settled upon and staked everything in sight, and in every conceivable shape.

For the first two or three days, the way of taking a lot was to drive a stake in it with the name of the claimant written thereon, and this was called "staking lots," and the persons who did it were called "stakers." This, to a great extent, thwarted the plans of the Seminoles.

As before stated, the Colony Crowd had held an election on the afternoon of April 22d, and elected a full set of city officers, one Mr. Murray being elected mayor, but it was the misfortune of the Colony Crowd that Mr. Murray was a very meek, reasonable and just man, and in no sense a boomer.

Under the leadership of this Colony Crowd, what was known as the Citizens' survey was made, the streets located, claims to lots adjusted from Reno avenue up to the lots on the north side of Grand avenue, and there their work was stopped, as hereinbefore stated. As a means of carrying out their original design, men, then unknown to the settlers, but who afterwards proved to be Seminoles, called a Citizens' meeting to appoint a committee to nominate city officers, and to act until an election could be had. At this meeting, persons who afterwards proved to be Seminoles, nominated one officer after another, and as the Seminoles thoroughly knew each other, and were unknown to the other settlers, their slate went through without a single objection. The day for election was set for about three or four days later. Before those three or four days expired, stories began to leak out about the Seminoles, and another Citizens' meeting was called to nominate a ticket opposed to the Seminoles. The Seminoles crowded it, yelled and hooted, and kept up such a confusion that nothing could be done, and hence a Citizens' committee was appointed to nominate a ticket for city officers, opposed to the Seminoles, which was done. The Seminoles nominated Hon. A. C. Scott, who has so long been president of our Agricultural College, for city or police

judge, while the Citizens nominated one O. H. Violet for the same office. The election was held on the day appointed, and all voted who so desired, and voted as many times as they wished. Women voted and boasted of it as the first time that they were permitted to exercise the rights of freedom, and people all about the country, whoever happened to come in, also voted.

The Seminoles, fortunately for them, had both of the election boards, there being two polling places. What the real tally of the votes was nobody knows; sufficient to say, however, that they proclaimed a handsome victory for the Seminole ticket, except A. C. Scott, and he was overwhelmingly defeated, and the Citizens' nominee, O. H. Violet, elected by a large majority.

The city council so elected was duly organized, and their very first act was to provide for the Seminole Company to sell certificates to lots, which was followed afterwards by ordinances, as they called them, to remove settlers from lots who were not holding those certificates.

These certificates were started at the price of twenty-five dollars per lot. This of course brought on a storm, and a change was made, providing that certificates should be sold, and some were sold as low as two dollars per lot, and others and most of them for four dollars per lot, but the twenty-five dollar Seminole certificate was always to be valid under their ordinance.

This change further provided that these certificates should be issued by the city, and one Blackburn, as recorder, was to issue them and collect the fees. It was held out that the money obtained from these certificates was to be used to grade the streets and otherwise improve the city. This recorder fixed himself up an office, with wooden bars in front, much the same as a bank, and for some two or three weeks did a rushing business, as everybody was anxious to help the town along.

The city council soon provided by their so-called ordinances, for the trial of rights of settlers to lots, in the police court, and the result showed that they had made no mistake in their purposes in defeating A. C. Scott, and electing O. H. Violet police judge. Ledru Guthrie was elected city attorney. Next step, the Seminoles erected a jail, just where the city jail now stands. It was constructed by spiking two-by-four timbers, flatwise on top of each other, until a little higher than a man's head, and then putting a roof on it, and placing therein little barred windows.

They enacted an ordinance, making the lot certificates conclusive evidence that the holder of the certificates was the rightful owner and occupant of the lot described in that certificate.

The next thing, they required that an applicant for a certificate should file an affidavit that he was the original staker and the rightful owner of the lot on which he asked a certificate. These Seminoles thoroughly understood that the whole thing was a farce, and that the recorder had no power to administer an oath, and that any person could swear to as many affidavits as he pleased, and would not be guilty of perjury, and the result of all this was, that scores of persons took out certificates on lots, already occupied and settled upon by other persons, not knowing what was going on, and as a further result every Seminole and ever sooner was armed with these certificates, for as many lots as he cared to buy.

The reader will bear in mind that at that time there was no law in the Indian Territory, except the laws of the United States, and they had no application whatever to city and town governments, and there was

no means of collecting debts, and no courts in the country, except one United States court, at Muskogee, nearly two hundred miles away and then over three hundred miles by rail.

Under these conditions, this so-called police court was the only court in the whole country, and from it there was no appeal, because there was no court to appeal to, so there was only one of two things to do, and that was for the settler "To grin and bear" the actions and decision of this police court, or seek redress by some other means.

In addition to all this, the so-called city government levied all kinds of occupation taxes, and largely collected them, and issued licenses to gamblers, bawdy houses, and any and every thing that came along that would turn a dollar into the city treasury. These licenses to gamblers, fakirs, and bawdy houses were given as receipts for fines, which were levied only at intervals of about once a week. This city council also granted franchises to Seminoles and their friends for street railroads, electric light lines, water works and telephone lines, to run for twenty years, and with absolute power to control these grants, as might best suit the companies to whom they were granted. These franchises were granted so as to have something to sell, but no one could be found who would invest money in such enterprises, and the so-called grants of franchises were laughed at by all men of means, and were never built upon.

Soon the people began to observe that the money thus taken was not going to any public purpose. This of course caused further dissatisfaction. Soon prosecutions were commenced in the police court, against persons who were on lots without certificates, and people were arrested by scores for this so-called offense.

It was well known that the city organization was wholly and entirely illegal, and that these certificates were wholly without law. This arresting of so many persons, who knew that they were rightfully on the lots occupied by them, simply fanned things to a fever heat, and indignation meetings were held, and fiery and earnest speeches made.

The Seminoles dubbed these fellows "Kickers." At one of the public meetings, a wag yelled out, "The Seminoles call us 'kickers'; they are Seminole Indians, and by God, I'm a Kickapoo." This raised a roar of laughter, and at once the name Kickapoo was adopted, and an organization was effected, known as the Kickapoos, and Dr. Beale, of Cynthiana, Kentucky, was elected its chief and a band of advisory "sachems" was also chosen, and public meetings began to be held very frequently upon the streets. All of these meetings were constantly attended by soldiers in arms, under the command of Captain Stiles, and when the Kickapoo council met, it nearly always found two or three soldiers standing guard around. The result of all this was, that the police court was so full of cases on these lot certificates, that it was absolutely impossible to try them all.

Soon people began to be convicted in the police court in large numbers, and were sent to jail until the jail (before spoken of) was crowded so full that there was not room for another man. In hot days this jail was almost suffocating. That old jail is still standing, back of the city jail, and is now used as a cook house.

When these trials were first begun, the court would grant to the defense the right of trial by jury, providing the defendant would put up twelve dollars as jury fees, but the juries got to acquitting the fellows who were charged with being on lots with-

out certificates, where the testimony showed that they were the first and rightful settlers upon the lots.

This led to the abolition of the right of trial by jury, and all jury trials were thereafter denied. I will give a few specific instances which will well illustrate the proceedings in that court.

One McGowan was charged with being on a lot to which another man held the certificate. He demanded a jury trial and paid his twelve dollar jury fee. The proof showed that he had settled on the lot, had his tent thereon and was living there, but another man had got the certificate, and that McGowan was arrested for being on that lot without a certificate. It was further shown, that the holder of the certificate had never been upon the lot in any manner, and the jury promptly acquitted McGowan. The police judge kept the twelve dollars and gave the jurors, who were six in number, one dollar each—what became of the other six dollars we never knew. In a few days this same McGowan was again arrested for the same offense, on a motion by the city attorney for a new trial. The court promptly decided that the verdict was wrong, and set the acquittal aside. The attorney for McGowan, whose utterances were not at that moment those of a Sunday-school teacher, was by the court informed, with a wise look, that, "Thith is a thumary proceeding." I might add that the police judge lisped a good deal, but he always had his nerve with him. The city attorney then held aloft one of these townsite certificates, and demanded that "The law be enforced." The whole former acquittal was set aside, and the defendant was, by the judge, declared guilty. The defendant demanded a jury, and offered twelve dollars more, but the jury was promptly denied, and he was ordered to jail, and while in jail his tent was torn off, and the lot given to the holder of the certificate, and the defendant in consideration of being liberated, agreed to, and did leave, the town.

The Seminoles were there in the court-room, in the guise of what they called court officers, all well armed, and with bright leather belts on. This was in the afternoon. There were a few of the Kickapoos present in court, and they broke right out and cursed the court and the Seminoles and everything in the court-room.

Another man was on a lot with a frame building on it, peacefully, and disturbing no one. He was arrested for being on that lot without a certificate. The court was so crowded that his case was continued for about two weeks. He came to the writer to act as his attorney. We applied to the United States district judge at Muskogee, for a writ of habeas corpus, that being the only court available. Captain Couch was then mayor of the city. We made this application the next day after the man was first arrested. In about two or three days, the man came running to me in a great hurry, and said his case was to come on that morning, that he had been arrested again, and had to be ready for trial. We went to the police court, urged delay, and argued for time and all that; the city attorney said that he demanded that that case be advanced on the docket and be tried at once, which was done; the townsite certificate was exhibited, and all other evidence refused and denied, and the fellow promptly convicted by the court, and inside of an hour he was in jail, and everything he had on his lot was taken from him. That same afternoon he was let out of jail, but his lot was then gone. At that time, Mr. Harvey, afterwards a delegate to Congress, was here, and called me to his office, and

Couch, the Seminole mayor, was there and wanted to know of me, in case he let the fellow out of jail, whether I would advise him to behave himself.

I observed Mr. Couch hand a letter to Mr. Harvey, and the date on it showed that it had been received at Oklahoma City the evening before. Harvey pulled the letter out, and it was an order from the judge at Muskogee to release that man, and mailed in an envelope directed to the mayor of Oklahoma City, and consequently Couch got it. The next morning the fellow was called into court in the hurried manner I have heretofore described, convicted, imprisoned, and his lot taken from him, after this court order had been received, and after the lot was thus taken from him, he was turned out of jail in obedience to that order. The sight of this order very clearly explained to me the cause for the great hurry in trying the man, and that it was to get him off the lot at once and then obey the order.

A woman was convicted for being upon a lot without a certificate, and the police court order was issued for her removal, and the city marshal called upon James Geary to assist him in the execution of the writ. Geary, as I suppose, thinking he was bound to obey, assisted in the removal. The woman was badly injured in this action, and sued Mr. Geary in the court at Muskogee for damages, and got judgment against him for five thousand dollars. Mr. Geary was an enterprising real estate man, and afterward really owned a large interest in Maywood, in the name of his wife, and that judgment explains why the name of Mrs. Geary appears in nearly all the abstracts to property in Maywood addition to Oklahoma City.

Another man had the lot on the southwest corner of Main and Robinson streets. At the time that was a slough, with water in it, and the man had on it a little restaurant, set up on posts, so as to keep out of the water. The lot was claimed by one Woodruf, an admitted sooner, and not qualified to hold the lot, and at last never did hold it, and also lost a claim on which he had a homestead entry. He obtained one of these city certificates, and had in the police court a judgment for the removal of this restaurant man.

The marshal, armed with this writ from the police court, carried the man out, and also his wife, who was so sick that she had to be carried out on a bed, and tore the house down and put the holder of the certificate in possession. This man afterwards got a heavy judgment against the city marshal for damages, which could never be collected, and yet stands in the district court of Oklahoma county.

An old man who occupied the lot where the five-story Lee building now stands was beaten almost to insensibility in order to get him off and to deliver the lot to a Seminole.

Another man held a lot that was afterwards under the Lee Hotel. He got a chance to sell and sold it for three hundred dollars, and started to leave the town, and got to the depot. It was claimed by the Seminoles that he was holding a lot for one of them, and they followed the fellow to the depot, with some soldiers, and took the money from him by force.

Another man, who was here, and determined to stick to his rights and to his lot, would not submit, and was carried by the soldiers out of town, and down into the Kickapoo country, about thirty miles away, and there turned loose. He walked back and afterwards won his lots. He had the grit.

These are given only as a few of the in-

stances, but they show so well the proceedings and conduct of that city government and police court.

While all these proceedings were going on, there was of course much excitement over the matter. The Kickapoos were holding meetings which were attended by crowds reaching into the thousands, but they always counseled obedience to law, and proceedings in other channels to stop this city government.

One of the plans determined upon by the Kickapoo council, was to prepare a city charter, which should define and fix and determine the powers of the city government.

This was prepared, and deprived the city government of all power over lots and of the power to determine the rightful ownership thereof, as that matter belonged alone to the United States, and provided for a superior court, to be elected by the people, to which appeal might be taken from the police court, the object of course being to throttle the police court.

This charter was published in the papers of the city for about three weeks. When election day came, polls were opened on Broadway street between Main and Grand avenue and also north of Main street, and were at once surrounded by large numbers of voters, filling and blocking the streets.

All at once, under the command of Captain Stiles, of the United States army, a body of troops came sweeping down the street, on full charge of bayonets, and of course scattered the voters, and knocked some of them down, and caught and imprisoned others, which of course broke up the election.

There was here at that time a United States commissioner, and warrants were sworn out before him, charging all the persons who acted in opening the polls for this election with treason against the United States, a crime punishable with death. They were arrested, but put under only their own bonds, and the causes were soon after dismissed by the United States attorney from Kansas. At that time the United States court at Wichita, Kansas, had jurisdiction to try felonies committed in the Indian Territory. These arrests were clearly an attempt to terrify and intimidate the Kickapoo officials, but they had exactly the opposite effect, and made matters far worse, and the resistance more determined and active than ever before.

When we got territorial government, Captain Stiles was sued in the territorial courts for this transaction. In all cases where these suits were brought, the courts gave instructions that the people had the right to assemble, and hold this election, and that military interference was unlawful, and instructed the juries to bring verdicts against the parties interfering with the election, and they did so.

After this military charge was over, the clamor became so great that the Seminoles themselves put out a charter, defining the powers of the city council, and giving to the city government all the powers they desired, and ratifying all they had done. That charter was submitted to a vote, with both Seminoles and Kickapoos on every election board, and it was overwhelmingly voted down.

Soon after this, Captain Couch, the mayor, who claimed a piece of land west of town, had to move out and effect a settlement on his land, which rendered the mayor's office vacant. The Kickapoos nominated Dr. Beale, of Kentucky, as their candidate, and the Seminoles nominated Henry Overholser. Dr. Beale was elected,

and pandemonium reigned in town that night. All kinds of unearthly noises, and speeches and horn blowings were the order of the night.

The soldiers were never again in town, and never afterwards in any way attempted to influence the actions of the citizens.

While all that has been before detailed was going on, Captain Stiles opened a land office in Oklahoma City, and went into the business of taking testimony, and hearing cases and finding the rights of settlers on the public lands, and when he rendered a decision, which was generally promptly done, the execution was sure and effective and consisted of a file of soldiers and a sergeant and, if need be, the settler decided against, moved off or was promptly moved off of the land.

During all this time the Kickapoo council had been busy sending information and complaints to the authorities at Washington. This led to an investigation, and when this mayor's election took place, the department at Washington was promptly informed of the state of affairs, and Captain Stiles was ordered to close his land office, and give his attention to military duties.

Just before this mayor's election, two of the so-called councilmen of the city gave up their positions, one moved away and the other resigned, and two others were elected, by the Kickapoos by an overwhelming majority, one of whom was Jack Love, now president of the Corporation Commission of the State of Oklahoma.

As before stated, this city government had been collecting large sums of money, and for no public purpose. In the investigation afterwards ordered by the government of the United States, from the imperfect data available, it was found that the city had received:

For 726 City Lot certificates	$3,297.00
143 Lot Certificates at $2.00	286.00
Occupation tax	713.35
Fines Police Court	1,163.00
Total of	$5,459.35

which was probably about twenty-five per cent of the real sum that had been collected.

Soon everybody was informed that no person had a right to collect this money, and when this investigation was started, the city treasurer picked up, bag and baggage, and went off carrying with him $5,390 of this money, and that was the last seen of him or the money either. This treasurer had given heavy bond to the city, to faithfully account for all moneys received. Of course this whole thing was void, and nothing could be done, and nothing ever was done with the fellow about the matter.

When this state of facts, as hereinbefore set out, became known to the government of the United States, the government sent down a United States marshal, to take entire charge and he did so, and thereupon the Seminole government was closed up, and all interference with lots, or lot ownership and right of possession was stopped, and the collection of all kinds of taxes ended; the police court was closed up, and nobody was tried. Judge Violet was given the name of "Judge Posey," on account of his name.

This order sending down the United States marshal, with directions to hold things just as he found them, and to permit no changes, was what was known as the "Statu quo order." As soon as this city government stopped its operation, there was the most perfect peace, quiet and order, and in fact better than in the best governed city in the United States.

In fact it was such a complete success that nearly everybody became converted to

the theory that if the people were left to themselves without law they would enjoy the best government known.

I never saw a man arrested during that whole period by the officers of the United States, so perfect and quiet was the condition of affairs.

The coming of this "statu quo order" terminated what was known as the Seminole and Kickapoo wars.

I have always felt that but for the pleas for peace and order, so constantly made by the Kickapoos, and their continued efforts to obtain redress by appeal to the department as Washington, that nothing but violence could have resulted from the condition of affairs existing.

IV.

In response to the request for an account of the struggle in the first legislative assembly, to remove the capital of the territory from the city of Guthrie, I will say that, Oklahoma territory was created by act of Congress, on May 2, 1890, and that act provided for a legislature and that there should be two houses, one called the "council" or "upper house," and composed of thirteen members, and of course seven would be a majority in that body. The house of representatives contained twenty-six members, and of course fourteen would be a majority.

The act creating the territory provided that the capital of the territory should be located at Guthrie, until otherwise provided by the legislature.

I was elected from Oklahoma county as a member of the council. George Steele, ex-member of Congress from Indiana, was appointed governor, and was a strong and rabid Republican. Nominations for the legislature were made by political parties, but there was very little voting on party lines. Nothing was to come before the legislature which was of a Democratic or Republican character, except the question of which party should have the little offices about the legislature.

As soon as the legislature met, the fight for the location of the capital commenced brewing. The Republicans had a majority of two in the house of representatives, and a majority of one in the council, and could of course have organized both houses.

There were two Republicans in the house, and one in the council from Oklahoma county. The minority of the house and council was composed of Populists and Democrats.

The Populists and Democrats proposed to the two Republicans in the house, and the one Republican in the council, from Oklahoma county, that if they would unite with the minority party and give them the legislative offices, they, in turn, would unite with these Republicans from Oklahoma county, and promptly pass a bill locating the capital at Oklahoma City.

I was the Republican in the council from Oklahoma county, and opposed this deal, because I was satisfied it never could and never would be carried out.

This kept the houses from organizing for something near a week. During this time a large popular meeting was called and held in Oklahoma City, and I was sent for to come down, and give an account of my unwillingness to enter the capital deal, for the benefit of my own city, and I came.

The meeting was an enormously large one, and held in the streets. I told the people of the difficulties in the way, that I was sure Governor Steele would veto the bill if passed, and that it took two-thirds to pass the bill over his veto, which we

never could hope to get, but that we could get two good institutions, and possibly three, to-wit, the state university, the agricultural college, and the penitentiary, and that if we would give Guthrie the capital, we could unite their forces in the legislature with ours, and take anything we wanted except the capital. This proposition, to unite with Guthrie, was met with derisive yells, and a unanimous resolution was passed, with a great whoop, demanding the capital or nothing.

While talking to that meeting on that occasion, such remarks as "Corner lots in Guthrie," and "ropes," and "telegraph poles" were plainly to be heard.

I told the meeting that their order would be obeyed, and went back to Guthrie, gave the Democrats and Populists the legislative offices, and I at once prepared Council Bill Number 7, providing for the removal of the capital to Oklahoma City, upon a date named in the bill. This bill was promptly passed through the council by a vote of 7 to 6, and sent to the house, and there it began to meet all kinds of difficulties, most important of which was what was then suspected and afterwards known, that the people of Guthrie had raised money and bribed two of the Populists in that house, and one Democrat.

For these men in the house to vote against the bill would be too bare-faced and so they amended the bill by fixing the date at which the capital should come to Oklahoma City just one week later than that named in the bill as it passed the council.

I was present in the house when this was done, and was of course very angry over the matter. There were rumors that one Populist in the council had also been fixed, and as I walked out of the hall of the lower house, I heard the expression, "By God, that fellow [meaning the fellow in the council who had been fixed] wasn't worth hog meat before that amendment was made, was he? But now, he is worth over a thousand dollars, ain't he?"

Overhearing this conversation directed my attention at once to that member of the council. The capital bill had now of course to be sent back to the council, for that body to concur in the amendment so made by the house. The plan of those opposing the bill was to have it so amended in the house, and then fix the council, by getting just one man, in such a way that the council would then stand seven against the bill and would never concur in the amendment, and thus kill the bill.

The bill was held in the council without action, over the three days allowed by the house to reconsider their vote, whereby they had amended the bill. The point to that by the opponents of the bill was to fix it in such a shape that it could never get back into the lower house, because the time allowed for reconsideration was passed.

After the time was thus passed, the capital bill was called up in the council, and a motion made to concur in the amendment made by the house. The suspected fellow, sure enough, voted against concurrence, but another man, who had been fixed, by means known only to certain Oklahoma politicians, which was said to be a thousand dollars, paid by an agent of a railroad company, to the utter amazement of the Guthrie people, voted to concur, which of course gave the bill seven votes to concur and the bill was passed.

By all law and parliamentary usage this should have sent the bill to the governor for his signature or veto, but the house of

representatives, in violation of all parliamentary rules, promptly passed a vote to recall and reconsider the bill, and voted so to do.

Things were now desperate in the house of representatives, and what afterwards became a known fact was that the people of Oklahoma City and vicinity raised five thousand dollars, and sent it by a trusted agent, now a prominent man of Oklahoma City, and not the writer hereof, into the house of representatives, and with it part of the Kingfisher county delegation, in that body, was bought outright, and thus the reconsideration defeated.

The bill was then sent to the governor, and just as I expected, was vetoed by him. The people of Kingfisher determined now to introduce a bill locating the capital in that city. This bill was introduced into the house of representatives, and had a clear majority, if they could hold the members from Oklahoma county.

Soon rumor began to have it, that the Oklahoma county delegates in the lower house would not vote for the Kingfisher capital bill, unless this five thousand dollars was returned to the Oklahoma City people.

The Kingfisher members had squandered or spent the money, and hence could not return it, and so the people of Kingfisher raised it and paid this five thousand dollars to a member of the house of representatives, as was subsequently developed, over an old stove in a hotel in Guthrie, which hotel is now torn down. Not strange to say, this money never got back to the people of Oklahoma, who gave it, but the Kingfisher bill passed, and in turn was vetoed by the governor.

The act of Congress provided that no law passed by the legislature should become effective until after the legislature adjourned. There was then no efficient bribery law in force, and there was none until our present law against bribery (passed by that legislature) went into effect with the adjournment of that body.

The whole thing from beginning to end was a rotten, disgusting mess, of which I think every member of the assembly was thoroughly sick before it was done with. I found that every man that had a corrupt bill, or a scheme, or a graft, would demand of the persons in favor of one of these capital bills that he should champion and pass that man's pet measure, and if he went back on that, that the other fellow would go back on the capital bill, and thus this bill was held as a club over the heads of every honest legislator, to try to drive him into the support of such other nefarious measures.

Quite a number of scenes of violence were enacted in connection with that bill. On one occasion a crowd of Guthrie people got after the Hon. Daniel Peery, and chased him out of the house of representatives, and through the hall where the council sat, when he, by a lucky dodge, landed in a large unused ice-box, and there remained from about two o'clock in the afternoon until relieved by his friends, about sun-down, and was then, I do think, the worst frightened man I ever saw. The reason of the chase was that his pursuers thought Mr. Peery had the capital bill, and they seemed determined to get it, apparently with the intent to destroy it. The facts were that Mr. Peery did not have the bill at all, but he heard only their curses and threats, and didn't know what they were chasing him for, but was clearly of the opinion that "prudence was the better part of valor," and hence fled.

The council sat in the back end of a

long store room, and across that room was a railing with a gate in it, which cut off about one-third of the rear end of the room, and held it for the use of the council when sitting as a body, the front two-thirds being used as a public lobby.

At one time when this capital bill was under consideration in the council, the lobby was full of people opposed to the bill, and they undertook to raid the council, when they were met at this gate by a Mr. Nesbit, of Cleveland county, who declared he would shoot the first man who came through that gate, and so determined were his appearance and actions that he held that whole crowd at bay.

During that time, a member of the council from Guthrie was making all kinds of objections and disturbances to prevent a vote on the bill. He was seized and held down in his chair while the vote was being taken, and it was this act which came so near provoking this rush on the council.

Justice would demand that history should state the names of the persons who paid out these corruption funds, and the names of the persons who received them, but owing to the prominence of many of the parties, some of whom are still in Oklahoma, prudence demands that their names be omitted; but be it said that in that first legislative assembly there were many as honest and pure men, and men of as good intentions, and patriotic purposes, as ever sat in a legislative hall.

After the enaction of these scenes, Congress passed acts forbidding the territorial legislature to remove or locate the capital of the territory.

Another thing I would say, that it is an exceedingly dangerous and unwise thing for any people or community to contribute money, and place it in the hands of agents, to be used in fixing legislators or other public officers, for the reason that it is almost an absolute certainty that large amounts of it are kept by such agents, and only a small portion, and many times none at all, paid to the public officers; this, besides the dishonesty in the whole business.

This was abundantly shown in the transaction had during this capital fight, and further shown by the fact that the five thousand dollars returned by Kingfisher never made its way back to the people who had contributed it.

In conclusion, I will add that subsequent developments confined the giving and taking of bribes to just four men in the council, and to not over five in the house, but the two houses were so close that that number was sufficient to determine any measure in either house, and those parties soon became thoroughly known in their respective houses, and were despised and without influence, either in or out of the house, after their fellow members became morally certain of their corrupt actions, and for them all, I have personally, at all times, shown the deep contempt I feel for them.

When the countless difficulties and disputes over homesteads and town lots have been reviewed the inquiry naturally arises, What was the final outcome of all these troubles and how were the contested claims settled, and in what manner was order established among the inhabitants of the territory? In order to secure a detailed answer to these questions, and to throw additional light on the conditions arising from the settlement of Oklahoma, Mr. W. F. Harn was asked to contribute an article on the "sooner" and perjury trials which were brought by the federal government. Mr. Harn was the special attorney of the interior department sent to Oklahoma to investigate and prosecute these cases, and he

therefore writes from the standpoint of an expert and intimate observer of the events which he describes. His article follows:

Sooner and Perjury Cases.

By W. F. Harn.

In the fall of 1890 the secretary of the interior, Hon. John W. Noble, received a communication from the register and receiver of the United States land office at Oklahoma City stating that perjury was being committed so generally in contest cases in that district that it was next to impossible for those officers at times to even as much as guess approximately which side in a trial was telling the truth. The letter appealed to the department for a special agent to make an investigation on the ground and to take such action as might be necessary in the premises.

At the opening of Oklahoma Territory but two land offices were authorized, one at Guthrie and the other at Kingfisher. It soon became apparent that the lands close to Oklahoma City, being vastly superior to those of other sections of the new country, were being so vigorously contested for that a land office at that place was an absolute necessity. Hence in 1890, a year or so after the opening, a new land office was created at Oklahoma City, which at once became the busiest land office in the United States.

The interior department was looking about, in the closing days of December, 1890, amongst its several hundred special agents, for a suitable person to undertake the Oklahoma perjury investigations, when Senator John Sherman, of Ohio, suggested the name of W. F. Harn, of Mansfield, in that state, as a person capable of satisfactorily performing the delicate task.

Mr. Harn was selected, and with the simple instructions to proceed to Oklahoma City and assist the local United States officers in an attempt to eradicate the crime of perjury and prosecute the offenders, arrived at his destination the first of January, 1891.

In order to understand thoroughly the perjury situation in the territory, it is necessary that something be said about the conditions existing at the time of the opening of the country to settlement, as well as before and after.

For many years prior to the legal opening of Oklahoma, ambitious and adventurous citizens of bordering states made repeated pilgrimages into the territory for the purpose of making homes therein, but invariably the United States government detailed bodies of the Ft. Reno and Ft. Sill soldiery to drive these would-be settlers out of the country. The reason given was that the rights of the Indian tribes had not yet been fully extinguished and under the various treaties the government was bound to keep the country free from white intruders.

There was the additional reason, however, that the country was soon to be thrown open to homestead settlement and it was intended to give every qualified citizen, whether residing in Maine, Kansas or California, the same opportunity to get a home in the country whose fertility and agricultural possibilities were known to be equalled by few and surpassed by no other section in the American Union.

It was, therefore, the most natural thing for Congress to include, in the act providing for the opening of the country to settlement, a provision having in view the clearing of the promised land of all intending settlers, so that every one could have a fair and even chance with every other to procure a home as a gift from the government.

Oklahoma was composed of two sections of Indian lands, namely, those ceded by

the Creeks, and those joining the latter on the south, ceded by the Seminoles. In the act of Congress of March 1, 1889, relating to the Creek cession, Congress provided that,

"Any person who may enter upon any part of said lands in said agreement mentioned prior to the time that the same are opened to settlement by act of Congress shall not be permitted to occupy or to make entry of such lands or lay any claim thereto."

In the act of Congress of March 2, 1889, in relation to the Seminole cession, providing for the opening of the Oklahoma country to settlement, the following language was also used: "But until said lands are opened for settlement by proclamation of the president no person shall be permitted to enter upon and occupy the same and no person violating this provision shall ever be permitted to enter any of said lands or acquire any rights thereto."

On March 23, 1889, President Benjamin Harrison issued his proclamation naming 12 o'clock noon, April 22, 1889, as the time of the opening of Oklahoma to settlement and reiterated the warning of Congress that the lands, which were particularly described, "will at and after the hour of twelve o'clock, noon, of the twenty-second day of April next, and not before, be opened for settlement under the terms of and subject to all the conditions, limitations and restrictions contained in said act of Congress approved March second, eighteen hundred and eighty-nine, and the laws of the United States applicable thereto."

The proclamation gave the further warning, "that no person entering upon and occupying said lands before said hour of twelve o'clock, noon, of the twenty-second day of April, A. D., one thousand eight hundred and eighty-nine, hereinbefore fixed, will ever be permitted to enter any of said lands or acquire any rights thereto, and the officers of the United States will be required to strictly enforce the act of Congress to the above effect."

Notwithstanding these repeated warnings, both by Congress and by the president of the United States, intending settlers swarmed into Oklahoma during the prohibited period and the soldiery had its hands full driving them from the country. As rapidly as they were expelled, the more venturesome, and they were in the vast majority, would recross the lines into the forbidden land. The attempt to enforce the prohibition, therefore, became a mere travesty, for Congress had not provided a penalty other than a disqualification to acquire any of the lands as a homestead.

Hence, at 12 o'clock, noon, April 22, 1889, the hour set for the opening of the country to settlement, the great mass of people seeking homes in the new country had divided themselves into three distinct classes.

One was the official class in the employ of the government or the Atchison, Topeka and Santa Fe Railroad, who were in the country by permission on account of their employment.

The second comprised those who slipped into the country under cover of night. These selected the most desirable tracts of land that appeared to be unclaimed and put such improvements thereon as in law would be sufficient to furnish proof of prior legal settlement.

In this second class was also a contingent who boldly or secretly, as the individual case seemed to require in order to evade Uncle Sam's bluecoats, before the hour of opening went upon land adjoining the tract

he wished to claim and immediately after the hour of 12 o'clock, noon, April 22, 1889, stepped upon the tract selected as his homestead.

The third class comprised the great body of homeseekers, who believed that the law meant what it said, and therefore remained on the line till the time named in the president's proclamation as the time of the opening.

When the latter class invaded the coveted lands afoot, on horseback, in wagons, in buggies and in every imaginable means of conveyance, behind horses, mules and even oxen, at breakneck speed, there is little wonder that every valuable piece of land in the valleys and every tract of land close to the promising larger townsites were entered upon and occupied by settlers who seem to have sprung from the ground or dropped from the skies.

Many of these premature settlers had tents up, shacks and dugouts under way, and even gardens made with the vegetable plants glistening bright and green in the brilliant sunlight of an Oklahoma April day, thus apparently surpassing the magic of the Oriental jugglers who will grow a beautiful rose bush in full bloom while one looks on in wonderment and admiration.

After one had ridden like mad for many miles, almost killing his horse, through black jacks, over sand hills and prairie, and across streams and ravines, only to find that some one had beaten him afoot, there was but one thing to do for him who remained on the line in obedience to the law, and that was to squat on the land evidently settled upon unlawfully by the man he found in occupancy. This was done by thousands and nearly all the valuable tracts from one end of the territory to the other were claimed by two or more settlers, while some of the more valuable pieces of land in the vicinity of Oklahoma City were claimed by as high as ten or a dozen persons.

In the land department of the United States government a judicial system had been evolved whereby settlers on public lands could have their respective rights inquired into after the manner much similar to that prevailing in a court of law without the jury. This suit is called a contest, and is initiated by the aggrieved person filing in the land office an affidavit setting out the cause of the contest stated concisely and corroborated by two witnesses in writing under oath deposing to the facts stated in the affidavit of contest from personal knowledge and observation. On the allegations contained in the affidavit of contest a "hearing" is ordered and the trial proceeds in the usual manner, except that the testimony of the witnesses is taken by a stenographer and the typewritten testimony is signed by the witness.

Here, then, is where perjury began to assert itself. Wilfully testifying falsely to a material question in these land contests, knowing the statements to be false or not believing them to be true, was declared by the United States courts to be perjury just as much as if the testimony had been given in court. It was also held that a false oath to any affidavit filed in the United States land office for use in any matter involving, legally, a contest is perjury, if all the other elements of perjury were present.

If the man who came legally from the line after 12 o'clock, noon, April 22, 1889, succeeded in getting the homestead entry, that is, if he got to the local land office first and his application for the homestead accompanied by the necessary affidavits was accepted first and a receipt issued, the other claimant would file a contest for prior settlement, in the trial of which the issue of

the violation of the act of March 2nd, 1889, and of the president's proclamation was raised.

If the man who was in the country before the hour of opening got his homestead entry of record in the local land office first, it became necessary for his opponent to file a contest with the proper corroboration, if he desired to further assert his claim to the land. In the latter case the contestant usually alleged that the entryman had entered upon and occupied the land contrary to law and the president's proclamation, specifying, if he could, the circumstances of the disqualification, and offering to pay the costs of such contest.

Thus was created a new word in the vocabulary of the English language. The man who violated the acts of Congress and the president's proclamation opening Oklahoma to settlement came to be known as a "sooner." He who was lawfully in the country during the prohibited period because of his employment as deputy United States marshal, soldier, clerk, railroad employe and the like received the distinctive title of "legal sooner," while the one who, illegally in the country, admitted his presence therein, but claimed a right to be there as long as he did not "enter upon and occupy" a particular tract till after 12 o'clock, noon, April 22, 1889, never acquired any other appellation than that of a plain, ordinary, every-day "sooner."

The latter and the so-called "legal sooner," however, deserve considerable commendation for the force of character displayed amidst the most seductive temptations. These, being on the grounds at the hour of opening, settled upon tracts of land of great possible future value, some of which, adjoining Oklahoma City, literally became worth millions of dollars, and yet, with a rugged honesty worthy of the highest praise, these men stood upon the facts and their interpretation of the law and refused to commit perjury, when perjury meant to them, perhaps, a competency for life and in some instances wealth beyond the most fantastic dreams of avarice.

While the sooner lines were pretty well defined from the beginning, contestants and contestees were somewhat at sea as to what would be the final interpretation of the "sooner" clause, until on October 1, 1890, Secretary of the Interior John W. Noble handed down a decision in the case of the Townsite of Kingfisher vs. John H. Wood and William D. Fossett, in which the following language was used:

"The evident intention of Congress was to give to all persons desiring homes in Oklahoma an equal chance to obtain them. The territory was opened for homestead settlement to any qualified homesteader, but under the same conditions. No partiality was intended to be shown to any individual or class of individuals. Those who had been endeavoring for years to enter upon and occupy Oklahoma were confronted by the authority of government. The statute meant to lay a heavy hand on any one who persisted in the unlawful purpose of entering upon and occupying this territory for settlement. The law was meant to be superior to the spirit of aggression so long prevalent—the spirit that had gathered those bands about this Indian reservation, whose avowed purpose was to enter upon and occupy it, not under the land laws of the United States, nor by any law, but that of the armed hand, and to conform to no statute or treaty until future necessity might compel. The evil was apparent. The law was meant to meet it. It condemned the purpose, and intended to render it fruitless.

* * * * * *

"The language of the law was broad as it could be made, prohibiting any one from entering upon the lands for the purpose of settling the same. * * * The evident purpose of the law was to prohibit one or

another entering the territory before the proclaimed hour, *with a view and purpose of settlement of any part thereof.* No one could be there, legally with such purpose, in whole or in part. Whether there before the time by some permit or without it, the one who then entertained the intention of making a settlement and to use the advantage which his presence gave, to the exclusion of others, was violating the spirit of the law, and it destroyed his claim when attempted. If he had declared it before, he should have been expelled; if he exhibited such preconceived purpose by his subsequent act, he not only could not lawfully claim any particular tract, but forfeited all right to future acquisition.

* * * * * *

"To hold that the few with permits, or especially engaged within the limits of these lands any more than those there without license, could pick out their claims in advance of the hour of opening, and pounce upon them at the very moment the signal was given to the others to start on their long race, would be to support pretension and favoritism and punish honorable obedience to authority. It is neither the law nor the equity of the case, and will not be allowed. He who, being within these lands by special authority, as deputy, trainman, wagonmaster, or other, had the purpose to jump upon a particular tract, and who gave the evidence of his prior intent by his conduct immediately thereafter, violated the statute. Such persons had entered upon and occupied this territory for the purpose of settlement—before the hour fixed in the proclamation—whatever license they may hold up or self-indulgent and self-deceiving pretext they may now present. They were not licensed or employed thus to defeat the law and injure their neighbors.

"Both classes were prohibited from acquiring rights to these lands: those who were in the territory at and before the hour designated in the proclamation without pretense or special license; and those who were there by special authority, or for a special purpose, but attempted to pervert their presence to secure claims before others held on the border could arrive, even from the most distant parts thereof."

A "sooner" having thus been defined, there was a scurrying of claimants to cover. The "legal sooner" and the one who admitted his presence in the country during the prohibited period hastened to try to fix up some sort of a settlement or compromise with his opponents, while the genuine simon-pure "sooner," he who left the line between two days, and hid in the brush on or in the vicinity of the land he subsequently claimed as a homestead, loudly proclaimed his presence, during the prohibited period, on the line outside of the country opened to settlement, and prepared to prove it, too, by as many of his neighbors as necessary, with whom he became acquainted in the brush where he himself had lain concealed when the soldiers were scouting in the vicinity.

Out of this condition of affairs grew secret combinations and organizations made up of men who had violated the law. The lands in controversy between themselves and others were too valuable for them to meekly allow their contestants to get them without every resistance in their power.

Some of these secret organizations had a carefully drawn set of by-laws and constitution. Regular meetings were held at the homes of the members at fixed times, and at other times witnesses were trained and drilled in the testimony they were expected to give in a particular case. Hence by means of the perfect understanding between the members of the various organizations, it became possible to furnish a "preponderance" of the testimony on any particular point in any case of one of its members. Indeed, a legal homesteader was usually overwhelmed in the number of witnesses introduced by the "sooner," and at one period in the early day history it almost seemed impossible for the rightful applicant to prevail. These secret organizations were

usually composed of men in particular neighborhoods, but their sympathies and the ramifications of their interests were such that evidence was furnished from one to the other indiscriminately, although always on the basis of *quid pro quo*, on the theory that they were engaged in a common cause in which each member would be strengthened by the success of every other.

There was the Crutcho Organization, so named because the most of its members lived in the valley of a creek known by that name and along the North Canadian river, of which the Crutcho was a tributary. These lands are among the richest in America, the soil rivaling that of the valley of the Nile. It is hardly a marvel, therefore, that many persons fought with desperation to get such a home, where north and south meet and all the products of both grow side by side in such abundance as is not equaled in the one section or the other.

Another organization was known as the Lightning Creek Combination, so called, also, after the name of the valley in which most of its members were claiming lands. This "combination" was located south of Oklahoma City near the North Canadian river, and on some of the disputed lands is today Capitol Hill, a suburb of Oklahoma City, with a population of four thousand persons.

Then there was the Bohemian Outfit, composed of forty or more naturalized citizens of that nationality, who "soonered" the valley of the Mustang, a section rivaling in beauty and productiveness the broad, rich, black, level bottoms of the Crutcho. While the latter organization was composed principally of foreigners, yet they exchanged witnesses with some of the Americans, so that altogether in the end these combinations became an amalgamated whole. In fact, so difficult was it to identify an individual Bohemian that it seemed almost impossible to break the stories cunningly told and abundantly corroborated. So thorough was the preparation of their cases that in the civil suits they won everything everywhere till reversed by the secretary of the interior after criminal convictions. The exchange of testimony with the Americans, however, proved their undoing, for once the American organizations went to pieces the perjury of the Bohemians became easily apparent and as easily proven.

One of the by-laws of the Crutcho Organization was especially forceful and, as was no doubt intended, capable of any extreme interpretation the members saw fit to put upon it. It was:

"Any person found guilty of violating any of the rules of this organization or of carrying news to the enemy shall be dealt with according to a two-thirds vote of the members present."

There was another similar combination on the South Canadian river, another between Yukon and El Reno, and numerous small combines in other small rich valleys in various locations, and many exclusive sets surrounding Oklahoma City.

In some of these combinations were men of desperate character, many of whom later on served terms in prison for other crimes or died "with their boots on."

Such, briefly, was the condition of things at and near Oklahoma City at the time the United States government determined to stop the crime of perjury by driving the perjurers into the penitentiary.

Some lawyers contended that false swearing wilfully to a material matter in the land office was not perjury and that there was no law to punish persons so accused. Those who had been committing the crime openly and boldly defied the prosecution. The first grand jury that sat in the United States

side of the territorial court in January, 1891, brought in seventy-five indictments for perjury. The foreman of the grand jury was a "sooner," but belonged to the class that believed that he was violating no law as long as he did not go upon the tract of land he sought, before the hour of opening, and spurned the thought of committing the crime of perjury. His name was John A. Blackburn.

These indictments were followed rapidly by other indictments and the most vigorous prosecutions ever known in a western court. After being indicted, the accused persons defied prosecution, and boldly told the officers that they could never get convictions, no matter what the government proved. Threats of assassination were frequent and ofttimes above board, but those charged with the duty of breaking up the hotbed of perjury relentlessly pursued the prosecutions.

Hon. John G. Clark, formerly of Lancaster, Wisconsin, was the presiding judge, with Will H. Clark as clerk of court, while Hon. Horace Speed, of Guthrie, United States attorney for Oklahoma, and W. F. Harn, special agent, of Oklahoma City, acted for the United States government. Assistant United States Attorney John F. Stone and Special Agent John W. Scothorn rendered material assistance, although the work of the two latter was confined mostly to prosecutions in the vicinity of Guthrie, where similar "sooner" and perjury combinations, but on a much smaller scale, had been formed and maintained.

The first few trials consumed as much as four weeks each, day and night, and were fought desperately by the several defendants and their attorneys. A conspiracy was unearthed, in which it was planned to dynamite the court house for the purpose of killing Judge Clark, United States Attorney Speed and Special Agent Harn, but the plans of the assassins were thwarted by the early discovery of the details through a confession of one of the accused, who subsequently served time in prison for murder. A bomb was thrown under the house of Special Agent Harn, but the fuse was put out by the bomb striking some bushes. At another time Deputy United States Marshal Frank Cochran stayed the hand of a defendant perjurer's son-in-law, as the latter was about to plunge a dirk into the back of Special Agent Harn, as the latter was leaving the court room. Other instances of this kind, never publicly made known, were numerous and frequent.

These acts of intimidation, however, failed to stop the monotonous and incessant grind of the court. Conviction followed conviction as rapidly as the cases were submitted to the juries. Many defendants left the country as soon as they heard that their cases were under investigation by a grand jury, which they could pretty well figure out by the names of the witnesses before that body, while many of those indicted jumped their bonds, and never again appeared in the territory. The officers were deluged with offers from defendants to turn state's evidence, and many detailed confessions were had that were never used. Although the guilt of the defendants was established by untainted testimony, in all cases, yet usually the prosecution was able and did use the evidence of several accomplices for the main purpose of showing the secret methods of the organizations.

After the backbone of perjury had been broken, it was no unusual sight for defendants to appear in court and enter pleas of guilty with a request for immediate sentence. On one morning, in single file, no less than eleven defendants appeared before Judge Clark and asked that they be

permitted to change their former pleas of not guilty to pleas of guilty as charged in the indictments.

The Bohemian Outfit were indicted at Oklahoma City, Guthrie and Wichita for perjury committed in cases tried at Oklahoma City, Guthrie and Kingfisher. At the time of the giving of the evidence at Kingfisher the United States court at Wichita had jurisdiction over the territory, which accounts for the prosecutions in Kansas.

There was little else than perjury tried at Oklahoma City in the year 1891, yet the docket was far from cleared of cases charging that crime as the end of the last term of court drew near. The Bohemians were notified that in a few days their indictments at Guthrie would be tried. But a trial was not what they were looking for, and some sixteen or more hurried to Wichita, where they were under bond and asked the United States marshal to lock them up, in order that their bondsmen might be exonerated. This was done, and when it was discovered that their voluntary return to prison was merely a ruse to get the defendants out of the jurisdiction of the Guthrie court, the Kansas officers volunteered to return the accused to Guthrie for trial. Inasmuch as the defendants and their attorneys seemed to prefer the Kansas jurisdiction, all of the cases were set down for immediate trial in that court be fore United States Judge Williams.

A desperate effort was made by the defendants' attorneys to avoid trial. Messrs. Speed and Harn were charged with having Oklahoma terrorized by their prosecutions, and it was claimed that the defendants could not get a fair trial, because of the fear of their witnesses to testify. After being forced into trial, however, the same old gang of witnesses was on hand for the defense with the same old brazen stories. The prosecution examined nearly one hundred witnesses on behalf of the government, hammering to pieces every material statement made by a perjury witness. A jury returned verdicts of guilty against fifteen defendants in three days. Since the convicting jury came from every part of the state of Kansas and had little or no acquaintance with conditions in Oklahoma, the verdicts were a complete vindication of the Oklahoma officers. When prominent defendants went upon the stand and made a full confession of perjury and subornation, the hitherto almost impregnable defense wasted away like a mist before the rising sun. One defendant escaped. His indictment was dismissed on the motion of the United States attorney for a defect in the copying.

Hon. Joseph W. Ady, United States attorney of Kansas; Hon. Pliny Soper, assistant United States attorney, and W. F. Harn prosecuted, while Stanley, of Wichita, later governor of the state, defended. Judge Williams was so greatly impressed with the completeness of the government's prosecution to the minutest detail, that he voluntarily remarked that it was the most remarkable series of prosecutions that ever came to his attention on account of the preparedness of the prosecution to meet every point in law or evidence that might possibly have been raised by the defense.

These fifteen defendants were sentenced to the penitentiary for terms of from a year and a day to four years at Leavenworth.

There were other trials of perjury cases, but the crime had been stamped out, and the later prosecutions were of a desultory character. Numerous cases, also, were tried that involved perjury on matters other than the "sooner" question, but they were few when compared to the whole number

tried. During the service of Special Agent Harn prosecuting perjury not a single acquittal took place.

In most cases the rightful claimant in the end prevailed, notwithstanding repeated defeats in the civil suits. And yet there are instances where valuable claims were held by "sooners," and all efforts to dislodge them proved of no avail. The suspected persons were smart enough to keep their matters to themselves, but as one or more would part with his interest he would often confide the true facts to a friend.

Hon. Caleb R. Brooks, Hon. T. F. McMechan and Hon. Roy Hoffman, United States attorney and assistants, assisted by W. F. Harn, then a practicing attorney, who succeeded the officers under the Harrison administration, followed the early day prosecutions with commendable vigor, but the crime became unpopular and the great State of Oklahoma is the better for it.

After almost twenty years have expired, in looking back over the facts in those historic trials, in which at least one hundred and fifty persons were indicted for perjury, and two-thirds of that number either convicted, made fugitives from justice or allowed to turn state's evidence, the writer does not recall a single instance of a prosecution by him not justified by the facts.

Some valuable information touching the settlement of Oklahoma City and the disputes over the homestead claims adjoining the townsite is contained in the "Findings of facts and conclusions thereon by the register and receiver of the Guthrie land office," in the case of "Townsite Settlers of Oklahoma City vs. Frank M. Gault et al.," in the United States land office in 1890. An abstract of these findings appears herewith:

Sections 3 and 4 of township 11 north, range 3 west, and the southeast quarter of section 33 and the southwest quarter of section 34, township 12 north, range 3 west, are bottom land, but the north half of sections 33 and 34 are rolling uplands, with a gradual slope to the south. The beginning of this elevation is about one thousand feet south of the south line of the north half of those sections. There is a small ravine on the line dividing sections 33 and 34, each section having a gradual slope thereto.

Prior to noon, April 22, 1889, there had been constructed and was in operation a railroad, known as the Atchison, Topeka and Santa Fe, running in a southwesterly direction down the ravine, and on the line dividing the sections mentioned. At a point about 800 feet north of the point where the sections corner was located the station, freight and passenger depot, side tracks and water tank. Near the depot was the postoffice.

At noon on that day about thirty people were at the station and from one hundred to one hundred and fifty in that vicinity. At noon, Charles Chamberlain, a civil engineer and a resident of Great Bend, Kan., was at the station with a plat which he had previously made, of a proposed town to be known as Oklahoma City, to embrace the north half of the northeast quarter of section 4, the southeast quarter of section 33 and the south half of the northeast quarter of section 33. He was at the station to survey the ground into lots, blocks, streets and alleys at the instance of a private citizen, whose name he refused to disclose in this case. At two minutes past noon he, with six assistants, began the survey about 1,728 feet north of the south line of section 33, and ran the south line of Main street west and at right angles with the railroad a distance of two blocks. He then returned and ran the east line of Broadway south from Main one block and a half. Then he ran the east line to the north line of the south half of the northeast quarter of section 33, this line being run at one o'clock, and small stakes one inch square were driven on the lines of the survey. Returning to Main street he extended the south line to the west line of the east half of section 33. Broadway was located at right angles with Main street about 400 feet west of the east line of section 33.

At once, after the survey was begun, the people present began to stake lots on Main and Broadway, and on the commons on the southeast quarter of section 33. About 150 people settled upon this southeast quarter before two o'clock and ten minutes p. m. of that day.

Several hundred of the thousands of people who had congregated at Purcell before the opening day had decided to locate at Oklahoma station,

and to establish a town to be known as Oklahoma City on the east half of section 33. The train on the Santa Fe left Purcell at noon, and before it arrived at Oklahoma station it was arranged that one of their number, Peter G. Burnes, a civil engineer, should survey the townsite. The train arrived at 2:10 p. m., and two thousand of the people thereon left the train and went in various directions to locate lots, but the greater number went west and north of the depot and settled upon the southeast quarter of section 33. After the arrival of the train Peter G. Burnes made preparations to survey the townsite and devoted the remainder of the day in finding the township line, from which he intended to start. He first surveyed Reno avenue, located on the township line, then California avenue, then Grand avenue. He was about three weeks doing this work. About the middle of May he began to survey the north half of the northeast quarter and was prevented from doing so by force. The differences between the Chamberlain and Burnes surveys were subsequently adjusted, which surveys locate Oklahoma City on the east half of section 33, but *the north half of the northeast quarter was never surveyed.*

The application for the townsite, filed by Louis O. Dick as trustee, on the opening day, named the south half of the northeast quarter and southeast quarter of section 33, and the north half of the northeast quarter of section 4.

At the time this case was tried in the land office, in the latter half of 1890, the population located on the east half of section 33 numbered about 2,378 persons; most of the business district and the greater part of the population in the southeast quarter.

The contest which originated this suit in the land office was over the northeast quarter of section 33, which was included in the original townsite and was also sought as a homestead. The following description found in the findings is a part of history.

Samuel Crocker, as a member of the Payne colony, was in Oklahoma in the year 1885, and at several times subsequent to that date, during which time he resided in Kansas. He came to Oklahoma station March 2, 1889, and established a residence at that place. Immediately after 12 o'clock noon, April 22, he settled upon the north half of the northeast quarter of section 33 and established a residence where he lived up to the date of this suit. Soon after he went upon the land, he dug a hole in the ground, had some plowing done, and erected a tent in which to live. By the 26th of April he had three or four acres broken, and subsequently had thirty-three acres broken. He erected a frame house 12 by 16 feet in size, with one addition 16 by 24 feet in size, and another 8 by 16 feet. He erected a stable and dug a cistern and well and built a chicken house. He fenced six or seven acres near the house and put up 350 rods of wire fence. He set out an orchard of two acres, 75 shade trees, planted two acres of watermelons and cantaloupes, one acre of buckwheat and two acres of turnips. On the 24th of April he made homestead entry No. 33 of the north half of the northeast quarter.

All this happened, according to the findings of the land office, on land now covered by business and residence houses near the heart of Oklahoma City.

But at noon on April 22, Frank M. Gault, who had lived twelve miles east of the east line of Oklahoma Territory, started from that line and arrived at and settled upon the northeast quarter of section 33 at one o'clock and ten minutes past noon. On the following day he had the land surveyed, and put up a tent, and later did some plowing and made improvements of various kinds. When, on May 17, he made application to enter the tract for a homestead his application was rejected as being in conflict with the entry of Crocker on the north half of the quarter and with the townsite application of Dick.

Three men named Fuller had each made application for entry of this quarter for homestead purposes. Besides the claimants who contested for this particular quarter section as a homestead, a man named George E. Thornton, who had been a government freighter previous to the opening and resided in a house on the northeast quarter of section 4, laid claim to this quarter section for homestead purposes. In the findings is other evidence regarding the settlement of Edward DeTar, Meshack Couch and Thomas Wright, who had been in government service in the country prior to the opening and had located on lands immediately after noon of the opening day.

Besides the matters of history involved in these findings, the register and receiver of the land office, in summing up the evidence, gave their decision on the rights of the homesteader as against the townsite claimant, and that decision is an important review of this subject.

"At one o'clock and ten minutes p. m. of day Frank M. Gault, a qualified homesteader, settled upon the northeast quarter of said section as a homestead, and has since resided thereon and maintained his settlement rights, and that at the time of his said settlement no settlement had been made thereon for the purpose of trade and business.

"It is insisted by the townsite claimants that Oklahoma station was a prospective townsite; that persons at Purcell and elsewhere had decided

to locate a town on the said half section as soon after noon of said day as it could be reached; that persons settled upon the southeast quarter at once after said hour; that the survey of the town was begun at that time; that by law such townsite settlers were entitled to enter three hundred and twenty acres of land; that a settlement upon any portion of it segregated the whole three hundred and twenty acres; that the settlement upon the southeast quarter segregated the northeast quarter also, and that homestead claimants were bound to take notice of these facts.

"It is settled by an unbroken line of decisions that settlers for homestead and townsite purposes are governed by the same rules of law, acquire their rights in the same way—by actual selection and settlement—and that such rights date from the first initial act. Speaking on this subject, in the case of Kingfisher vs. Wood, et al., the honorable assistant commissioner says, 'A body of people coming together with a common purpose of locating a town upon public land, have no greater rights under the law than a homestead settler, they are upon the same footing, and, as in this case, their rights must be determined according to the priority of their initial acts.'

"Gault's first initial act as a homestead claimant was his actual settlement upon the northeast quarter at one o'clock and ten minutes p. m. of said day and the real question is: Was the land at that time subject to homestead entry? All lands in Oklahoma were subject to homestead entry unless they had been selected or settled upon and occupied for purposes of trade and business. At that time, had this quarter section been selected?

"It is true that the proposed settlers at Purcell had decided to locate the town on this half section, but they were not settlers nor occupants of the land or any portion of the same and were prohibited from making such settlement prior to noon. The land department has always distinguished between a settlement and an intention to settle. The declarations of the settlers while at Purcell show an intention to settle, but such an intention did not segregate the land from homestead entry. In Keith vs. Townsite of Grand Junction, 3 L. D., 431, Secretary Teller uses this language: 'I had no intention to, nor did I, rule that a townsite could not be selected by a few persons; but I found as a fact that the persons who made this selection were not settlers on the land, and that they did not go upon it for the purpose of then becoming settlers; and I ruled, as a matter of law, that such persons were not competent to make a legal selection.' In Kingfisher vs. Wood, et al., the honorable assistant commissioner says: 'Undoubtedly the first act in locating a town under the public land laws, is the selection of its site, and without defining just what acts constitute a selection it is sufficient to say that there can be no legal selection for such purpose without a personal inspection and examination of the land by some of the people locating thereon or their agent. The theory that the people assembled at Buffalo Springs, I. T., April 22, 1889, legally selected the north half of the section in question as the townsite of Kingfisher, cannot for a moment be entertained. At that time, these people had never seen the land, and by the act of Congress and the president's proclamation, above referred to, they were prohibited from examining the same, either in person or through agent.'

"The evidence shows that at noon there were about one hundred and fifty persons in the vicinity of Oklahoma station, and that between that hour and one o'clock they settled upon said southeast quarter, but the preponderance of evidence is against such settlement having been made. The evidence does not show that any of such persons selected any particular half section for the townsite. Besides, they were in the territory at noon and made selection of lots immediately after that hour. Having at once made selections and being in the territory at a time when they could not have come from the line after noon, the fair presumption is that they were there illegally for the purpose of taking lands. It is true that Charles Chamberlain, the civil engineer, had a plat of the town which covered half of said quarter section, and was there for the purpose of laying the same off into lots, blocks, streets and alleys, but he had done but little surveying before Gault's settlement, and that which he did do was upon the southeast quarter, except the running of one line of a street to the center of said northeast quarter. While we found that such line had been run at that time, the evidence is very conflicting upon that question. Such line did not of itself show for what purpose it was run or that it was the line of a street. Chamberlain himself was non-resident, had come into the territory illegally, and could not make the selection for himself or any one else, had he attempted to do so. It does not appear that the person who procured his services was at that time or ever since has been a settler upon the land or a person competent to make a selection or settlement. It does not appear that Chamberlain represented or was acting for the settlers present, nor does it affirmatively appear that there was a single settler upon said half section who had come from the line after noon of said day. The burden of proof is upon

the townsite claimants to show a legal and valid selection and settlement of the land to segregate it from homestead entry.

"It is true that a reasonable number of persons may settle upon the public domain for the purpose of trade or business and that they may embrace in the townsite entry three hundred and twenty acres, even though their actual settlement is all upon one quarter, but to hold the other quarter section as against a homestead claimant such settlers must make a selection of such quarter before the initiation of the homestead right. 'To select is to choose, to set apart, to designate.' C. P. L. L., page 1297. No townsite settler had at the time of Gault's settlement, selected, set apart or designated the northeast quarter as a part of the townsite. It may be true that Gault was bound to know that the town was entitled to enter three hundred and twenty acres, but he was not bound to know that such settlers were going to claim this tract of land. How was he to know but that the quarter section east, west or south might be selected? He was bound only to initiate his homestead right to prevent the lands from being taken as a townsite and townsite claimants were bound to initiate their claim to segregate the lands from homestead entry. The fact that Gault settled near a proposed townsite cannot be accepted as evidence of bad faith. The following language, used by the commissioner in Plumer vs. Jackson (10 C. L. O. 71), is quoted with approval by Secretary Teller: 'The statutes cannot be construed to mean that persons going to the frontiers or along the lines of projected railways, and anticipating centers of population, shall not enjoy the benefits of their enterprise and foresight, though they believe their claims would be of great value on account of their proximity to cities or villages, or that villages or cities would even be built upon such claims, and thereby enable them ultimately to realize large prices for such land.' 3 L. D. page 434.

"The evidence shows that just after the arrival of the first train a large number of persons settled upon the northeast quarter of said section four for purposes of trade and business and have continuously so occupied the same until the present time, and that at this time there are twelve hundred people occupying said tract and have improvements of the value of $94,413. It also appears that George E. Thornton was a deputy United States marshal and government freighter, and had been stationed and living on said land since and prior to the passage of the act of Congress of March 2, 1889, had made improvements on said land and claimed the same as a homestead immediately after noon, April 22, 1889, and is now making such claim.

"Section thirteen of the act of March 2, 1889, provides: 'Until said lands are open for settlement, by the proclamation of the president, no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall be permitted to enter any of said lands or acquire any right thereto.' It is insisted by counsel for Thornton that he is not disqualified from taking a homestead by said act, because he was in the territory lawfully and lived here prior to and at the time of its passage.

"In the general land office decision in the case of Blanchard vs. White and Cook the honorable assistant commissioner, in discussing this statute, says: 'The clause of the statute under consideration has reference to only one class of persons, viz. 'All persons who, from and after the approval of the act aforesaid and prior to 12 o'clock noon of April 22, 1889, should enter upon and occupy any portion of the territory with the intent to make selection, settle upon or enter any of the lands therein. All others are not within the prohibitory clause.'

"George E. Thornton was lawfully within the territory and began his residence upon the quarter section claimed by him prior to the purchase of said lands by the government from the Indians, and prior to the passage of the act of March 2, 1889. It is admitted by the counsel for the townsite claimants that he claimed the tract in controversy as a homestead, for the first time, after 12 o'clock noon of April 22, 1889, and that in pursuance of said claim he followed up the initial acts of his claim by establishing a residence, cultivating, etc., and has so continued to do to the present time, and that said claim was made prior to the time that any portion of the same was claimed by any person or persons as a townsite by any settlement or entry thereon. In the case of the City of Kingfisher vs. John H. Wood and William D. Fossett it appeared from the evidence that Wood was within the territory included in the president's proclamation, dated March 23, 1889, prior to 12 o'clock noon of April 22, 1889; that he was at the time of the passage of the act within the limits of said territory by proper authority. It was held by the local office that in accordance with the views expressed by the honorable ex-commissioner, Mr. Stockslager, in a letter to Senator Ingalls, under date of April 12, 1889, that Mr. Wood was on April 22, 1889, a legally qualified entryman. In considering this case the honorable assistant commissioner says: 'I agree with your first conclusion that the fact that John H. Wood has for a number of years prior to April 22, 1889, been a resident within the Oklahoma country did not operate to preclude him from making a homestead entry in Oklahoma

on said date.' The same construction of the law is again made by the honorable assistant commissioner in considering the appeal of John C. Chapin from the rejection by the Kingfisher office of his application to make a homestead entry.

"Thornton was as lawfully and as properly within the territory at the time of the passage of the act of March 2, 1889, as either Wood or Chapin, and in view of the foregoing decisions Thornton has lawfully acquired a prior right to all other claimants to the quarter section claimed by him.

"We therefore conclude that Frank M. Gault initiated a homestead right to the northeast quarter of said section thirty-three (33) and that George E. Thornton initiated a homestead right to the northeast quarter of said section four before the same had been settled upon or occupied for the purposes of business and trade. That Edward DeTar, Samuel Crocker and Meshack Couch are disqualified from making homestead entry; that the southeast quarter of said section thirty-three is occupied by people for the purposes of trade and business and there are no valid adverse claims thereto.

"We recommend that each of said homestead entries be canceled; that the occupants of the southeast quarter of said section thirty-three be allowed to enter the same as a townsite under the act of May 14, 1890, and that a hearing be ordered to determine the rights of the several homestead claimants to said other several tracts of land.

JOHN I. DILLE, Register,
"C. M. BARNES, Receiver."

"Register Dille:

"I concur in the above conclusions as to the qualifications of George E. Thornton to make homestead entry because it seems to have been so decided by the honorable assistant commissioner of the general land office. It is by no means certain, however, that the above language used by him should govern us in this case."

CHAPTER XXII

ORGANIZATION OF OKLAHOMA TERRITORY

The attempts to organize a territorial government for Oklahoma before it was opened to settlement have already been described.[1] During this period marked divisions of opinion prevailed as to the form which such organization should take. Many of the residents of Indian Territory favored, notwithstanding the failure of the plans proposed at the treaties of 1866, the federation of the tribes and the organization of a government based on the Okmulgee constitution of 1870; this was the Okmulgee constitution party. Others desired the continuance of conditions as they had existed for years, meaning thereby the isolation of the Territory and preserving it as a great reservation where the Indians might work out their destiny according to their own customs and racial tendencies. While a third party, including those most active in the Oklahoma movement, contended for a territorial organization similar to those created by Congress for other divisions of the public domain, embracing the allotment of lands in severalty to all Indian citizens and providing for the distribution of the surplus among white immigrants, whose entrance for that purpose should be unrestricted.

In the final settlement of the question, a modified plan was adopted. While the earlier bills for the organization of Oklahoma Territory embraced all the Indian Territory, including the Public Land Strip, the opposition of the five tribes[2] was so persistent that it became evident that Congress

[1] See Chapters VIII, XVII; Sidney Clarke's narrative of the efforts in Congress to this end from 1866 until it was finally accomplished.

[2] The bill for the organization of the Territory of Oklahoma introduced in the house of representatives, December 21, 1885, by which a territorial government was provided including the country of the five civilized tribes, became the subject of a series of arguments by delegations representing the Cherokee, Creek, Seminole and Chickasaw nations, who opposed such legislation on the following grounds:

The organization of the territory assumed, they said, that the five tribes were a menace to civilization constituted as they were, whereas, as regarded civilization, education, industrial advancement, and respect for law and order, they were above the average of American communities. Instead of being an obstacle to the surrounding white communities, they themselves were menaced by the white citizens of the baser sort and by powerful corporations. It was not the voice of the people that called for such legislation, but asserted the delegates, "the clamor of the greedy speculators and adventurers who seek to stimulate such a public sentiment as shall result in the removal of the treaty bars which separate them from their coveted prey."

The argument continued with a summary of the treaty guarantees, and then followed with a forecast of results in case such legislation was adopted. "If the territorial government of Oklahoma shall be organized, as provided in this bill, the ruin of our tribes and people will be speedy and complete. First will appear the scum of white vagabondage, which is always borne on the surface and at the front of the wave of westward emigration of the American people. Then will come the horde of railroad hirelings, organized raiders of the tribal rights of the Indians, backed up by corporate powers, whose all-pervading influence is stealthily at work, by day and by night, upon Congress, courts and executive departments. . . . They will be followed by the grand army of sharp-witted, desperate land sharks, encouraged and emboldened by the ill-concealed sympa-

would never consent to the inclusion of the country occupied by those tribes within the proposed territory. Thus the Oklahoma bill, introduced in 1886 in the house by General Weaver and in the senate by Senator Van Wyck, finally passed the house in February, 1889, its provisions applied only to so much of Indian Territory as was not occupied by the five civilized tribes.[3] Even this method of fixing a boundary line between Oklahoma and Indian territories was not considered sufficiently definite, and in the organic act that finally passed in May, 1890, the country included was described in detail, resulting in the tortuous line that formerly marked the boundary between the territories.

The organization of a territory having failed in the Congress which expired on March 4, 1889, the point of interest in the agitation was transferred from Washington to Oklahoma itself, which, before Congress could again convene, had become the seat of a population that both needed and demanded some general form of government. This calls for an account of the agitation during the months following the opening.

A document signed by F. P. Baker, president, and Legrand Byington, secretary, of the Oklahoma Capital City Townsite and Improvement Company of Topeka,[4] as made public a few days before the opening, proves that the scheme of a provisional territorial government was outlined in detail before a single legitimate settler had entered the country. It began with the following address:

"To the People of Oklahoma: The federal government having precipitated a great mass of Anglo-Saxon humanity into the Indian Territory and left them there under its military domination without a semblance of civil authority, the said people are thereby compelled to fall back upon their inherent right of self-government as declared in the Declaration of Independence. Inasmuch as the Oklahoma Capital City Townsite and Improvement Company of Topeka expects to take a prominent part in the transformation of the country, they will

thy of respectable citizens of neighboring states. . . . The legislature after the first election will be chosen, not by the Indians, but by the railroad hirelings and land speculators. Its mission will be, not to guard the rights and interests of the Indians, nor to foster their moral, political and material progress, but to register and legalize the decrees of the men and corporations who will grasp and hold the reins of government. The only hope of the Indians would be in Congress and courts of the United States."

The general power of taxation vested in the territorial government, the objectors claimed, was inconsistent with the maintenance of tribal integrity and titles, since land must be sold for delinquent taxes. Further, the appointment by a political party of the territorial governor and secretary might result in an official clique opposed to the best interests of the territory, whose power would be directed to a spoliation of the Indians' resources. Also, with regard to the provision in the proposed legislation for the allotment of lands in severalty, the resolutions claimed that the holding of land in common was as much a part of Indian custom as the opposite form of ownership was sacred to the white race, and that while the Indian tribes were gradually progressing to this method of ownership, they were not yet ready to undergo such a revolutionary change.

[3] The territory proposed to be included in Oklahoma Territory by this bill was—"all that part of the United States included within the following limits . . . : Bounded on the west by the state of Texas and the territory of New Mexico; on the north by the state of Colorado and the state of Kansas; on the east by the reservation occupied by the Cherokee tribe of Indians east of the ninety-sixth meridian of west longitude, and by the Creek, Seminole and Chickasaw reservations; and on the south by the Creek, Seminole and Chickasaw reservations, and by the state of Texas, comprising what is known as the Public Land Strip, and all that part of the Indian Territory not actually occupied by the five civilized tribes."

[4] As reported by a Topeka correspondent in the Chicago Tribune, April, 1889.

propose to its inhabitants . . . the following plan of provisional government, namely: That on the 22d of May, 1889, a mass and delegate convention of said inhabitants be held at Guthrie to carry out the following program."

Continuing through six or seven sections, the address proposed that the territory be divided into four counties—Weaver county, Guthrie as county seat; Couch county, Oklahoma City as county seat; Springer county, Cooper as county seat; and Perkins county, of which the seat of justice was to be at Sells. The convention were to appoint a county judge and three commissioners for each of the counties, and also choose a "provisional executive council," consisting of one member from each county; and provided also: "That the executive council shall have jurisdiction of all matters affecting the whole territory . . . and shall provide for the election of a delegate to represent Oklahoma in the house of representatives of the 51st Congress. That said de facto government . . . shall continue until superseded or rejected by the action of Congress."

In less than two months after the opening of Oklahoma, agitation had begun for the establishment of territorial government. The citizens of Guthrie were the first to take steps in this direction. A call was issued from that city early in June, 1889, for a territorial convention to meet in that city on July 17 to establish a provisional territorial government. This announcement was made by a "Territorial Executive Committee." It was claimed[6] that this movement was being promoted by Guthrie for the selfish purpose of booming that town and the making of Guthrie the capital. At any rate the procedure caused displeasure among the surrounding towns, and in Kingfisher, Norman and Oklahoma City the newspapers and mass meetings protested against holding any such convention under the auspices of Guthrie.

The result was that an opposition convention was called to meet in Frisco, now an abandoned town-site, about 15 miles west of Oklahoma City on the north side of the North Canadian river, two days before the date assigned for the Guthrie convention.[6] The convention, which assembled in the afternoon of the appointed day in an unfinished building, was the first representative gathering of the people of Oklahoma and took the name of "Advisory Convention." It comprised an interesting group of men, almost a charter membership of the Oklahoma body politic.[7]

One delegate was Alice McAnulty, the

[5] "The First Eight Months of Oklahoma City," p. 27.

[6] The call for this convention was signed by the acting mayors—M. M. Duncan, of Lisbon; G. DuBois, of Frisco; J. T. Godfrey, of Reno City; W. L. Couch, of Oklahoma City; T. J. Fagan, of South Oklahoma; F. R. Waggoner, of Norman; C. S. Rogers, of El Reno; L. L. Stone, of Noble; Virgil M. Hobbs, of Kingfisher, and W. A. Beatty, of Alfred.

[7] Delegates to "Advisory Convention" of July 15, 1889:

Oklahoma City—Walter Shepard, T. H. Weise, Ledru Guthrie, L. L. Bell, D. A. Harvey, W. W. Witten, P. H. Wilhelm, L. H. North, W. A. Monroe, J. E. Love, B. H. Hull, A. Jacobs, W. L. Couch, Sidney Clarke, C. W. Price, A. J. Beale, H. B. Mitchell, J. T. Hickey, H. B. Calef, S. Armstrong, J. A. Blackburn, W. B. Barger, A. C. Scott, H. W. Sawyer, R. W. McAdam, W. L. Killebrew, W. H. Ebey, C. P. Walker, L. Countryman, G. W. Adams, W. H. Harper, J. L. Grider, J. L. Brown, J. B. Otto, O. H. Violet, Sidney Denham, M. R. Glasgow, W. F. Higgie.

South Oklahoma—H. A. Bolinger, E. W. Sweeney, W. T. Bodine, E. Holden, Mr. McNish, J. S. Lennox, D. B. Madden, Albert Smith, Mr. Sigler, A. T. Ross, J. N. Harvey, J. P. McKinnis, R. G. Young, G. G. McGregor, S. N. Lodan, D. J. Spencer, Walter Dolson, I. N. Huntsman, R. Q. Blakeney, J. M. Gaston, C. B. Bradford, W. J. Wallace, B. T. Waller, J. Bohanan, D. C. McKen-

first of Oklahoma women to assert herself in politics, and she was one of the speakers of the afternoon.

The resolutions that were adopted at this convention are interesting not only as the first formal message of Oklahoma to the world at large, but particularly as a proof of that remarkable capacity of a new American community for self-government and sound and reasonable recommendations concerning its political welfare. The report of the resolutions committee, while expressing confidence that the next Congress would provide for the needs of Oklahoma by establishment of territorial organization, opposed the formation of a provisional government such as proposed to be undertaken at the Guthrie meeting, and declared the intention of the people represented by the delegates to refuse recognition to such provisional government.[1]

Notwithstanding the opposition of the

non, J. A. Swope, Dr. Taylor, W. H. Honneus, R. C. Hillburn, T. J. Fagan, A. G. Brown, J. H. Beatty.

Lisbon—J. V. Admire, John O. Miles, James Burns, J. W. McLoud, John Garvey, J. E. Tincher, J. G. McCoy, S. D. Houston, E. L. Wallace, John P. Jones, R. C. Palmer, Henry Amey, Chester Howe, C. M. Cade, William Callahan.

Kingfisher—Mayor Hobbs, T. L. Hughes, F. M. Blair, William Lemoyne, George H. Laing, W. W. Noffsinger, G. W. Cox, Dr. R. Green, Walter Ellis, T. E. Williford.

Lexington—Amos Green (temporary chairman), P. R. Smith, A. M. Patterson.

Redwing—G. W. Fletcher.

Reno City—T. L. Easley, Thomas Bussell, E. F. Mitchell, C. M. Staples, William Morris, C. F. Quimby, Jack Stillwell, H. V. Clements, Angus McLain, Judge Hall, P. L. Smith, W. M. Cowan, George Mishler, J. C. Lambden, C. J. DuBois, C. H. Keller.

Moore—John W. Cowan, N. A. Hughes, J. G. W. Pierson.

Rock Island City—William Grimes.

Kingfisher City—E. C. Cole, Dr. Rand, Mr. McMechan.

Alfred—W. A. Beatty, Dr. D. McConnehey, W. T. Lewis.

Frisco—J. T. Godfrey, M. L. Brown, J. C. Coffman (in whose building the convention met), J. M. Cannon, J. C. Solitt, John Kuykendall, George Winter.

Edmond—C. V. Eggleston, J. J. Hunt, S. W. Johnson, C. B. Powell, James Martin.

Union City—J. D. Harston, W. F. Ledbetter, W. H. Goodell, O. E. Pettee, T. J. Sanford.

Orlando—J. M. Walker, J. H. Dyer, T. W. Boise.

Matthewson—C. A. Gaskell, J. W. Bennett.

Township 7, Range 4—W. Matthews, D. T. Huntley.

T. 12, R. 3—Samuel Crocker, Richard A. Field.

T. 17, R. 6—J. A. Stalford, Milton Blair.

T. 12, R. 5—H. A. Haskins, John R. Wilson.

T. 18, R. 6—A. A. Brigham, T. Owens.

T. 13, R. 6—W. H. Baker.

T. 18, R. 1—Kit Karson.

T. 16, R. 6—W. Grimes, M. Posey.

T. 13, R. 7—E. J. Simpson, J. R. Stevens.

T. 13, R. 6—Peter Shields, Benj. Keith.

T. 15, R. 6—W. T. Hayard, S. P. Blankenship.

T. 14, R. 6—J. R. Booth, Alice McAnulty.

T. 19, R. 3—J. H. Croff, Samuel Grotha.

T. 15, R. 7—J. R. Stephens, Jack Marshal.

T. 14, R. 7—W. H. Divin, A. E. Long.

T. 10, R. 5—A. M. Harsha.

T. 18, R. 7—E. C. Cook, P. C. Clark.

T. 12, R. 6—W. S. Rice, J. S. McAnary.

T. 19, R. 2—W. T. Reed, P. H. McDermid, J. V. Burgess.

T. 16, R. 5—Todd Williams, John Young.

T. 11, R. 6—C. T. Toarch.

T. 17, R. 5—D. B. Garret, Charles McDowell.

T. 12, R. 2—A. M. DeBolt.

T. 13, R. 6—W. Crum, C. M. Burke.

T. 13, R. 4—J. H. Couch.

T. 13, R. 5—A. I. Mathias, M. W. Johnson.

T. 13, R. 1—N. T. Nix, J. A. Stafford.

T. 11, R. 2—H. Geard, W. A. Arnold.

T. 11, R. 4—John Jones, G. A. Lehman.

T. 12, R. 7—Charles E. Lyle, Thomas Janson.

T. 11, R. 5—Joseph E. Bolezel, A. Caha.

T. 10, R. 6—Daniel R. Rigdon.

T. 12, R. 4—M. C. McAfee, M. M. Webster.

El Reno—W. G. McDonald, John A. Foreman, H. L. Bickford, A. Long.

T. 10, R. 7—G. W. Dixon.

T. 17, R. 7—W. H. Hedges, D. W. Jones.

T. 17, R. 5—John G. Crump.

T. 16, R. 5—S. E. Saunders, J. P. Fletcher.

T. 19, R. 3—C. E. Beck.

T. 14, R. 4—P. M. Gilbert.

(This list of delegates is taken from "The First Eight Months of Oklahoma City.")

[1] The resolutions, presented by Sidney Clarke, read as follows:

citizens of Oklahoma City and neighboring towns, the convention at Guthrie was held on July 17, with 96 delegates in attendance. F. W. Green, the postmaster at Edmond, was president of the convention. After the labors of the convention had been distributed to committees, an adjournment was taken to August 20. When the delegates re-assembled, the opposition to the organization of a provisional government for the territory to last until Congress should act had become so pronounced that the convention's work practically ended with its adjournment. However, an organic act was adopted, the territory was divided into counties, but no election was called to put this machinery into operation. The memorial is interesting and together with that adopted by the preceding convention at Oklahoma City indicates the state of opinion in the Territory and portrays the disadvantages under which the people of Oklahoma labored.[9]

The conditions described in the Guthrie

"The people of Oklahoma Territory, assembled in delegate convention for the first time, congratulate the people of the United States that the first steps have been taken on this soil to lay the foundation of a great and prosperous commonwealth. In less than three months, thousands of American homes have been established, populous cities have been built, municipal governments organized, and peace and order secured throughout all the lands opened to settlement. At no time in human history has the world witnessed such marvelous and rapid development of civilization, and nowhere in the United States, in the absence of state or territorial authority has there been greater security for life, liberty and property. Conscious of the high obligations resting upon us as the representatives in this convention of more than 50,000 people, thus exemplifying the best elements of American citizenship, and thus engaged in the material development of the most fertile and beautiful portion of the public domain, we declare it to be impolitic and unwise to enter at this time upon the formation of a provisional territorial government for the following reasons:

"1. Every indication points to the conclusion that Congress must meet in extra session in October or November, and that that body will proceed at once to consider a bill for the organization of the territory of Oklahoma.

"2. The regular session of Congress will commence in less than five months, when action on the bill can be had, should it fail to pass the extra session.

"3. The discussion during the past five years in Congress and by the public press of every phase of the Oklahoma question has educated the public mind, demonstrated the necessity of territorial organization, and gives a reasonable assurance that such action cannot be long delayed.

"4. The future Territory of Oklahoma should comprise all of the Indian Territory west of the ninety-sixth meridian, now occupied by a few thousand Indians, with the public land strip on the west, and should supplant with its authority the reign of the cattle syndicates, and all the usages of barbarism and the injustice which has so long been dominant in this section of country, bearing in mind always that a just, humane and honorable course of conduct towards the wards of the government should be maintained.

"5. No necessity exists for the organization of a provisional territorial government at this time. A vast majority of our people are opposed to the project, but even if it were desirable and practicable there is not sufficient time to put it in operation before Congress will be able to pass an organic act.

"6. It would be impossible for a provisional territorial government, unless established with great unanimity, to compel obedience to its laws, or to establish and enforce a system of taxation from which it could derive support.

"7. Believing therefore, that the attempt to establish a so-called provisional government would be detrimental to the best interests of the people of Oklahoma, we not only declare our hostility to it, but we also give notice that we will refuse to recognize any such government by every honorable means in our power."

[9] To the Senate and the House of Representatives of the United States in Congress assembled:

We, the people living in that part of the Indian Territory opened to settlement under the act of Congress approved March 2d, 1889, in convention assembled at the city of Guthrie, in said Territory, respectfully show that:

The land so opened comprised less than two million acres, and was settled on the first day it was opened for settlement to wit, April 22d, 1889; that immediately upon that day there sprang into existence in said land agricultural communities, villages, towns and cities—one of those towns containing not less than 8,000 people and another not less than 3,000 and the total population of the

memorial were so far an actual statement of the pressing needs of Oklahoma that when Congress assembled the following December, the passage of a bill for a territorial government was inevitable. President Harrison in his first message (already quoted) showed how creditably the settlers had performed their duties in up-

land opened being not less than 30,000 people. The population since that time has increased and now numbers not less than 50,000 people. Every quarter section of land fit for agricultural purposes has been settled upon and the towns have been steadily growing. Since April 22d, 1889, the settlers have constructed nearly enough houses for residences and buildings for the businesses which belong to towns of their size.

The towns now located and growing in said land number twenty-seven.

The population of this land is chiefly and to an unusual degree composed of law-abiding people, who have come here to make permanent homes for themselves and build up a desirable community life.

Owing to the press of other business upon Congress at the time the bill for the opening of this land was passed, there was no provision for territorial government made by Congress, or for any other government, nor for any law, save as the country might be governed by the United States courts, including the then recently established court at Muskogee, under the laws enforceable by them, it being doubtless intended by Congress that fuller legislation and more complete laws should be provided at its next meeting.

As now settled, this Territory has all the social and business conditions which would be found in an equal area of territory in one of the old settled States, and has need of as complete protection to its social and commercial conditions. At present, however, there is no provision in this Territory by which the property of a decedent may be taken charge of, his debts paid, and the fund remaining distributed to the persons properly entitled thereto; nor is there any rule of descents determining to whom the property should be distributed.

There is no provision for the solemnization of marriage, nor for the care or adoption of orphan children, nor the protection of wards, nor the administration of their estates.

There is no provision for the making or authentication of wills nor the probating thereof.

There is no provision for the care of the unfortunate or afflicted, the destitute, the aged, blind, sick or the insane.

There is no provision for burial grounds, nor is there any place where the dead may be lawfully interred.

There is no provision for the construction or maintenance of public roads or bridges; nor for the establishment or maintenance of public schools; nor for the apprehending of animals running at large or breaking into the fields of the settlers; nor for assignments by insolvents, or the application of their property to the payment of their debts; nor for the incorporation or regulation of banks or savings banks, or a rate of interest upon money.

There is no provision for conveyances of lands, or mortgages of lands or goods, nor for the recording of conveyances or mortgages.

There is no provision for trusts or powers, nor for the enforcement thereof; nor punishment for breach of trusts.

There is no provision for corporations for purposes of trade or business, nor for municipal corporations.

There is no provision for labor, material or mechanics' liens.

There is no provision for taxation for any purpose.

There is no provision for the protection of the public health, nor for the prevention or suppression of contagious diseases.

In criminal matters the laws at present in force in the Territory relate only to crimes against the United States and the primitive forms of violence, such as murder and stock stealing.

There is no provision of law as to child stealing, attempted rape, poisoning, abortion, libel, or blackmail, reckless burning of woods or prairies, burglarious entry of houses, trespass, embezzlement, altering or removing land-marks, forcible entry and detainer, forgery, rioting, carrying deadly weapons, disturbing public meetings, seduction, public indecency, profanity, gambling, lotteries, drunkenness, bribery, destroying legal process, official negligence or malfeasance, creating or maintaining a public nuisance, selling unwholesome, diseased, or adulterated provisions or drink, introducing diseased or infected stock into the Territory, swindling, false weights or measures, obtaining money or property under false pretenses, making or using counterfeit labels; nor for many other offenses.

By the exceptional and intelligent employment of United States troops and United States marshals, and by the force of an exceptionally cool and intelligent and honest public opinion, there has been a degree of public order so far preserved in this country that is extremely creditable

holding the substantial form and spirit of American civic communities, and urged upon Congress the necessity for legal sanction to the acts of the settlers. The delay of Congress in providing an organic act for Oklahoma must always rest as a severe criticism upon the dilatory tactics so often pursued in that body in the face of need

to the authorities and to the people. But it cannot be hoped that such unusual conditions shall permanently continue, and those provisions for the preservation of good order and the protection of person and property and the regulation of conduct which obtain in other established communities should be established here.

By the provisions of the act of March 2d, 1889, the only modes by which the title to town-sites could be conveyed to the actual occupants of the town-sites, were under sections 2387 and 2388 of the Revised Statutes, by the corporate authorities of incorporated towns, or by the judge of any county court in case the town is not incorporated. At present there is no law under which towns can be incorporated or have corporate authorities; nor can there be a judge of a county court, and therefore there is no mode by which town-sites can be legally entered, or any title to town lots obtained by the inhabitants of the towns.

This is a serious detriment to the towns of this Territory, and prevents the building up of many substantial improvements and enterprises in our towns, there being a natural indisposition on the part of the settlers to the expending of large sums of money on either residences, business houses, or business plants located upon lots to which they have not title as yet nor any provision of law which under existing conditions can assure them of a title hereafter.

Until such legislation is had we can not have fully effective city organization for the furtherance of the good and the repression of the evils constantly occurring in city and town life.

Until such legislation is had it will be almost impossible to have effective rules or laws as to public roads, or to prevent the fencing up of roads through the country—an evil which has been increasing since the time of our settlement, until now some of the principal roads are fenced and utterly abandoned and whole neighborhoods are debarred from any convenient way to any town or railroad.

While this large growth has taken place and this settlement has been made in the two millions of acres opened, it is well known that the government is now negotiating for and expects soon to open in the Indian Territory lands surrounding Oklahoma, amounting to not less than twenty million acres additional. If this large tract is opened and settled with approximately like density and rapidity, there will be as soon as opened a population in the Territory of from three hundred thousand to five hundred thousand new settlers. These, in addition to the people now in the whole Indian Territory, will make a total population in the Territory of from five hundred to seven hundred thousand people.

Part of these lands can now be opened for settlement without further negotiation if Congress so desires, and it seems probable that all of the twenty million acres will be open within two years. It is also probable that large bodies of these lands will be opened before this Congress adjourns, and that they will be settled at once, or within a few days after they are opened. That those lands should be opened without a territorial government being provided for them would be to invite calamity, and the necessity of providing a government for them needs no discussion.

The government given as herein prayed for would be a nucleus and an aid to put in operation the government needed in the lands that will be opened.

It would facilitate their ordinary settlement and influence the best class of immigrants to choose the land.

We therefore most earnestly pray that the Congress will, as its first duty upon its assembling, pass an organic act instituting this Territory, and giving to these American citizens full and sufficient territorial government.

E. L. GREENE,
President of Convention.
M. A. DUFF,
Secretary of Convention.
R. LOWERY,
Assistant Secretary of Convention.
A. MCCASKEY,
Corresponding Secretary of Convention.
O. V. HAYES,
Asst. Corresponding Secretary of Convention.

Frank M. Albright	B. F. Brown
John R. Ash	J. W. Breeden
S. B. Bevans	G. H. Bennett
Tyler Blake	L. A. Brown
John C. Calhoun	D. W. Dunn
J. R. Clark	W. H. Jackson
R. J. Barker	G. W. Goodrich
G. W. Clark	O. Gallagher
Elbridge Comstock	Bayard T. Hainer
S. R. Carson	William J. Ladd
W. T. Cannon	Robert Martin

for immediate action, and had not the Oklahomans possessed in such an admirable degree the qualities of self-restraint and independent reliance upon themselves, the result of that delay might have been disastrous. At it was, nearly six months intervened between the assembling of Congress and the passage of the organic act. As a copy of the organic act follows at the end of this chapter, it will not be necessary to describe it in detail. It vested the executive branch of the government in a governor, appointed by the president for a term of four years; the judicial branch in a supreme court (whose members were also federal appointees) and the several lower courts, the justices of the peace being chosen by the people; while the legislative power was vested with the governor and a council of thirteen and a house of representatives of twenty-six members, elected by the people for two years. The seven counties into which the territory was divided by the act were designated as "First," "Second," etc., until they were named, at the first election, in the order of their numbers, "Logan," "Oklahoma," "Canadian," "Cleveland," "Kingfisher," "Payne," and "Beaver," the last comprising the Public Land Strip.

The organic act for the organization of Oklahoma territory was approved by the president on May 2. A few days later he appointed the first governor of the territory. George W. Steele was a native of Indiana, had been a Union soldier and previous to this appointment had served four terms in Congress from Indiana. The arrival of the first governor at Guthrie on the afternoon of May 23d was the occasion of a celebration that was continued on the following day, when people from all parts of the territory assembled at the capital to welcome their chief executive.

July 8, 1890, the governor issued his proclamation calling for the first election for members of the legislative assembly, to be held on August 5. In the first election party politics was of less importance than local questions, especially the question of the location of a territorial capital, over which there was much rivalry between the leading cities. Politically, the members of the house were divided into 14 Republicans, 8 Democrats, and 4 of the Alliance party. In the council there were 6 Republicans, 5

D. E. McCormick	Robert Galbreath
J. W. McNeal	John H. Terrill
George Miles	Ira M. Terrill
Frank M. Moore	W. H. Wilson
W. B. Overton	J. M. Kuykendall
Milton W. Reynolds	B. F. Woodworth
D. M. Ross	W. H. Merriweather
T. J. Hart	W. D. Saunders
W. Lumpkin	E. N. Yates
J. M. Monroe	B. F. Larsh
James Morgan	J. A. McDonald
Dick T. Morgan	P. H. Guthrie
Frank Rector	J. M. Ennis
James L. Rock	T. P. Oliver
W. B. Russell	J. F. Saunders
S. E. Seeley	S. W. Bradford
Thomas Seeley	T. A. Stockslager
Horace Speed	H. C. Schilling
T. J. Lowe	Ottimus E. Schow
Franklin Springer	Theo. Pierce

C. P. Spinning	Hugh Jones
John F. Stone	A. C. Staley
Newton M. Taylor	James Potts
James R. Taylor	Charles McCormick
E. D. Turvin	W. H. Fallis
W. W. Thomas	S. J. Jackman
R. C. Vanarsdale	J. H. Fenlon
D. G. Woodworth	A. D. Hecock
Frank J. Wikoff	W. D. Lindsay
S. S. Cole	C. W. Andrew
N. W. Daniels	T. R. Waggoner
James R. Day	J. E. Grigsby
Frank Guthrie	W. A. Matherson
George A. Garrison	J. G. McCall
Alonzo Ervin	T. R. McElroy
W. B. Russell	F. M. Vaughn
W. C. Grafton	

(From "Illustrated History of Oklahoma," 1890, by Marion Tuttle Rock.)

Democrats and one of the Alliance party. The death of two members-elect, C. M. Burke and M. W. Reynolds, necessitated a special election, and the first legislature was not convened until August 27.[10]

The history of the location of the territorial capital is of interest. Section 15 of the organic act provided, That the legislative assembly should hold its first session at Guthrie, "and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said territory at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly."

In September, 1890, Councilman J. L. Brown of Oklahoma county, introduced a bill, that became notorious as "Council Bill No. 7," providing for the establishment of the seat of government at Oklahoma City and the transfer of all territorial offices to that place by February 15, 1891. The history of this movement is told by Mr. Brown, in his contribution to the early history of Oklahoma, given in the preceding chapter.

ORGANIC ACT.

An act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States Court in the Indian Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. That all that portion of the United States now known as the Indian Territory, except so much of the same as is actually occupied by the five civilized tribes, and the Indian tribes within the Quapaw Indian Agency, and except the unoccupied part of the Cherokee outlet, together with that portion of the United States known as the Public Land Strip, is hereby erected into a temporary government by the name of the Territory of Oklahoma. The portion of the Indian Territory included in said Territory of Oklahoma is bounded by a line drawn as follows: Commencing at a point where the ninety-eighth meridian crosses the Red River, thence by said meridian to the point where it crosses the Canadian River, thence along said river to the west line of the Seminole country, thence along said line to the north fork of the Canadian River, thence down said river to the west line of the Creek country, thence along said line to the northwest corner of the Creek country,

[10] The first territorial legislature of Oklahoma consisted of the following members:

Council.

District 1—Charles Brown, John Foster, John F. Lynn. 2—James L. Brown, John W. Howard, Leander G. Pitman. 3—Robert J. Nesbit. 4—Joseph Smelser. 5—Mort L. Bixler. 6—Daniel Harady, W. A. McCartney. 7—George W. Gardenhire. 8—Charles F. Grimmer.

House of Representatives.

1—Robert J. Barker, Wm. H. Campbell, Samuel L. Lewis, Wm. H. Merten, Wm. S. Robertson, James L. Smith. 2—Moses Neal, C. G. Jones, Samuel D. Pack, Daniel W. Perry, Hugh G. Trosper. 3—Wm. C. Adair, James M. Stovall, Thomas R. Waggoner. 4—Arthur N. Daniels, D. W. Talbot, John H. Wimberly. 5—Green J. Currin, D. C. Farnsworth, Joseph C. Post, Edward C. Tritt. 6—Samuel W. Clark, James T. Matthews, Ira N. Terrill. 7—Elisha A. Long. 8—A. M. Colson.

Territorial Governors.

Oklahoma, during its territorial existence, had seven governors. Governor Steele resigned soon after the capital fight and returned to Indiana, where he is still living. During the remainder of the Harrison administration the office was held by Andrew J. Seay, who was one of the first judges of the Oklahoma supreme bench. When Cleveland became president in 1893, his appointment for the office of governor was bestowed upon William C. Renfrow, a banker at Norman. Cassius M. Barnes became governor under McKinley in 1897. He had been receiver at the Guthrie land office and was otherwise well known in the territory, and was the first governor to serve a full four-year term. His successor, in May, 1901, was William M. Jenkins, who had come to Oklahoma with the opening of the Cherokee Strip in 1893. After seven months he was removed, and President Roosevelt then selected Thompson B. Ferguson, at that time postmaster and editor at Watonga, for the vacancy. Ferguson served four years, his successor and the last territorial governor being the Rough Rider captain, Frank Frantz, who at the time of his appointment was Osage Indian agent.

thence along the north line of the Creek country, to the ninety-sixth meridian, thence northward by said meridian to the southern boundary line of Kansas, thence west along said line to the Arkansas River, thence down said river to the north line of the land occupied by the Ponca tribe of Indians from which point the line runs so as to include all the lands occupied by the Ponca, Tonkawa, Otoe and Missouria, and the Pawnee tribes of Indians until it strikes the south line of the Cherokee outlet which it follows westward to the east line of the State of Texas, thence by the boundary line of the State of Texas to the point of beginning; the Public Land Strip which is included in said Territory of Oklahoma is bounded east by the one-hundredth meridian, south by Texas, west by New Mexico, north by Colorado and Kansas. Whenever the interest of the Cherokee Indians in the land known as the Cherokee outlet shall have been extinguished and the President shall make proclamation thereof, said outlet shall thereupon and without further legislation, become a part of the Territory of Oklahoma. Any other lands within the Indian Territory not embraced within these boundaries shall hereafter become a part of the Territory of Oklahoma whenever the Indian nation or tribe owning such lands shall signify to the President of the United States in legal manner its assent that such lands shall so become a part of said Territory of Oklahoma, and the President shall thereupon make proclamation to that effect.

Congress may at any time hereafter change the boundaries of said Territory, or attach any portion of the same to any other State or Territory of the United States without the consent of the inhabitants of the Territory hereby created: *Provided*, That nothing in this act shall be construed to impair any right now pertaining to any Indians or Indian tribe in said Territory under the laws, agreements, and treaties of the United States, or to impair the rights of person or property pertaining to said Indians, or to affect the authority of the Government of the United States to make any regulation or to make any law respecting said Indians, their lands, property, or other rights which it would have been competent to make or enact if this act had not been passed.

SEC. 2. That the executive power of the Territory of Oklahoma shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory; shall be commander-in-chief of the militia thereof; he may grant pardons for offenses against the laws of said Territory, and reprieves for offenses against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. That there shall be a secretary of said Territory, who shall reside therein and hold his office for four years unless sooner removed by the President of the United States; he shall record and preserve all the laws and the proceedings of the legislative assembly hereinafter constituted, and all acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the President of the United States and to the Secretary of the Interior and, at the same time, two copies of the laws and journals of the legislative assembly to the Speaker of the House of Representatives and the President of the Senate for the use of Congress; and in case of the death, removal, resignation, or other necessary absence of the governor from the Territory, the secretary shall execute all the powers and perform all the duties of governor during such vacancy or absence, or until another governor is appointed and qualified.

SEC. 4. That the legislative power and authority of said Territory shall be vested in the governor and legislative assembly. The legislative assembly shall consist of a council and a house of representatives. The council shall consist of thirteen members, having the qualification of voters as hereinafter prescribed, whose terms of service shall continue two years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue two years, and the sessions of the legislative assembly shall be biennial and shall be limited to sixty days' duration: *Provided, however*, That the duration of the first session of said legislative assembly may continue one hundred and twenty days.

That for the purpose of facilitating the organization of a temporary government in the Territory of Oklahoma, seven counties are hereby established therein, to be known, until after the first election in the Territory, as the First County, the Second County, the Third County, the Fourth County, the Fifth County, and the Sixth County, the boundaries of which shall be fixed by the governor of the Territory until otherwise provided by the legislative assembly thereof. The county seat of the First County shall be at Guthrie. The county seat of the Second County shall be at Oklahoma City. The county seat of the Third County shall be at Norman. The county seat of the Fourth County shall be at El Reno. The county seat of the Fifth County shall be at King-

fisher City. The county seat of the Sixth County shall be at Stillwater. The Seventh County shall embrace all that portion of the Territory lying west of the one hundredth meridian, known as the Public Land Strip, the county seat of which shall be at Beaver: *Provided*, That the county seats located by this act may be changed in such manner as the Territorial legislature may provide.

At the first election for members of the legislative assembly the people of each county may vote for a name for such county, and the name which receives the greatest number of votes shall be the name of such county. If two or more counties should select the same name, the county which casts the greatest number of votes for such name shall be entitled to the same, and the names receiving the next highest number of votes in the other counties shall be the names of such counties. An apportionment shall be made by the governor as nearly equal as practicable among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population (excepting Indians not taxed) as nearly as may be, and the members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected, respectively. Previous to the first election the governor shall cause a census or enumeration of the inhabitants of the several counties or districts of the Territory to be taken, unless the same shall have been taken and published by the United States, in which case such census and enumeration shall be adopted, and the first election shall be held at such times and places and be conducted in such manner, both as to the persons who superintend such election and the returns thereof, as the governor shall appoint and direct, and he shall at the same time declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled, as shown by the census herein provided for. The number of persons authorized to be elected, having the highest number of legal votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council, and the person or persons authorized to be elected, having the greatest number of votes for the house of representatives equal to the number to which each county or district shall be entitled, shall be declared by the governor to be elected members of the house of representatives: *Provided*, That in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election, and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint, but after such first election, however, the time, place, and manner of holding elections by the people, and the apportionment of representation, and the day of the commencement of the regular sessions of the legislative assembly shall be provided by law: *Provided, however*, That the governor shall have power to call the legislative assembly together by proclamation, on an extraordinary occasion at any time.

SEC. 5. That all male citizens of the United States above the age of twenty-one years, and all male persons of foreign birth over said age who shall have twelve months prior thereto declared their intention to become citizens of the United States, as now required by law, who are actual residents at the time of the passage of this act of that portion of said Territory which was declared by the proclamation of the President to be open for settlement on the twenty-second day of April, anno Domini eighteen hundred and eighty-nine, and of that portion of said Territory heretofore known as the Public Land Strip, shall be entitled to vote at the first election in the Territory. At every subsequent election the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly, subject, however, to the following restrictions on the power of the legislative assembly, namely: First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years and by persons of foreign birth above that age who have declared, on oath, before a competent court of record, as required by the naturalization laws of the United States their intention to become citizens, and have taken oath to support the Constitution of the United States, and who shall have been residents of the United States for the term of twelve months before the election at which they offer to vote. Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude. Third. No officer, soldier, seaman, marine, or other person in the Army or Navy, or attached to troops in the service of the United States, shall be allowed to vote in said Territory by reason of being on service therein. Fourth. No person belonging to the Army or Navy shall be elected to, or hold, any civil office or appointment in said Territory.

SEC. 6. That the legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States, but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or

other property of non-residents be taxed higher than the lands or other property of residents, nor shall any law be passed impairing the right to private property, nor shall any unequal discrimination be made in taxing different kinds of property, but all property subject to the taxation shall be taxed in proportion to its value: *Provided*, That nothing herein shall be held to prohibit the levying and collecting license or special taxes in the Territory from persons engaged in any business therein, if the legislative power shall consider such taxes necessary. Every bill which shall have passed the council and the house of representatives of said Territory shall, before it becomes a law, be presented to the governor of the Territory. If he approves he shall sign it, but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the vote of both houses shall be determined by yeas and nays to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly by adjournment, prevent its return, in which case it shall not be a law.

SEC. 7. That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory. The governor shall nominate and, by and with the advice and consent of the council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all such officers, who shall hold their offices until the end of the first session of the legislative assembly; and he shall lay off the necessary districts for members of the council and house of representatives, and all other officers, and whenever a vacancy happens from resignation or death, during the recess of the legislative council in any office which is filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council. It is further provided that the legislative assembly shall not authorize the issuing any bond, script, or evidence of debt by the Territory, or any county, city, town, or township therein for the construction of any railroad.

SEC. 8. That no member of the legislative assembly shall hold or be appointed to any office which has been created or the salary or emoluments of which have been increased while he was a member, during the term for which he was elected and for one year after the expiration of such term, but this restriction shall not be applicable to members of the first legislative assembly provided for by this act; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum. They shall hold their offices for four years, and until their successors are appointed and qualified, and they shall hold a term annually at the seat of government of said Territory. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace, who shall be elected in such manner as the legislative assembly may provide by law, shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction and authority for redress of all wrongs committed against the Constitution or laws of the United States or of the Territory affecting persons or property. Said Territory shall be divided into three judicial districts, and a district court shall be held in each county in said district thereof by one of the justices of the supreme court, at such time and place as may be prescribed by law, and each judge after assignment shall reside in the district to which he is assigned. The supreme court shall define said judicial districts, and shall fix the times and places at each county seat in each district where the district court shall be held and designate the judge who shall preside therein. And the territory not embraced in organized counties shall be attached for judicial purposes to such organized county or counties as the supreme court may determine. The supreme court of said Territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed. Each district court shall appoint its

clerk, who shall also be the register in chancery, and shall keep his office where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. Writs of error and appeals from the final decisions of said supreme court shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by oath or affirmation of either party or other competent witness, shall exceed five thousand dollars; and each of the said district courts shall have and exercise, exclusive of any court heretofore established, the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States. In addition to the jurisdiction otherwise conferred by this act, said district courts shall have and exercise exclusive original jurisdiction over all offenses against the laws of the United States committed within that portion of the Cherokee Outlet not embraced within the boundaries of said Territory of Oklahoma as herein defined, and in all civil cases between citizens of the United States residing in such portion of the Cherokee Outlet, or between citizens of the United States, or of any State or Territory, and any citizen of or person or persons residing or found therein, when the value of the thing in controversy or damages or money claimed shall exceed one hundred dollars; writs of error, bills of exceptions, and appeals shall in all such cases, civil and criminal, be allowed from the district courts to the supreme court in like manner, and be proceeded with in like manner as in cases arising within the limits of said Territory. For all judicial purposes as herein defined such portion of the Cherokee Outlet not embraced within the boundaries of the Territory of Oklahoma shall be attached to, and be a part of, one of the judicial districts of said Territory as may be designated by the Supreme court. All acts and parts of acts heretofore enacted, conferring jurisdiction upon United States courts held beyond and outside the limits of the Territory of Oklahoma as herein defined, as to all causes of action or offenses in said Territory, and in that portion of the Cherokee Outlet hereinbefore referred to, are hereby repealed, and such jurisdiction is hereby given to the supreme and district courts in said Territory; but all actions commenced in such courts, and crimes committed in said Territory and in the Cherokee Outlet, prior to the passage of this act, shall be tried and prosecuted, and proceeded with until finally disposed of, in the courts now having jurisdiction thereof, as if this act had not been passed. The said supreme and district courts of said Territory, and the respective judges thereof, shall and may grant writs of mandamus and habeas corpus in all cases authorized by law; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under said Constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said Territory, as in other cases.

SEC. 10. Persons charged with any offense or crime in the Territory of Oklahoma, and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken, for preliminary examination, before a United States commissioner, or a justice of the peace of the county, whose office is nearest to the place where the offense or crime was committed.

All offenses committed in said Territory, if committed within any organized county, shall be prosecuted and tried within said county, and if committed within territory not embraced in any organized county, shall be prosecuted and tried in the county to which such territory shall be attached for judicial purposes. And all civil actions shall be instituted in the county in which the defendant, or either of them, resides or may be found; and when such actions arise within any portion of said Territory, not organized as a county, such actions shall be instituted in the county to which such territory is attached for judicial purposes; but any case, civil or criminal, may be removed, by change of venue, to another county.

SEC. 11. That the following chapters and provisions of the Compiled Laws of the State of Nebraska, in force November first, eighteen hundred and eighty-nine, in so far as they are locally applicable, and not in conflict with the laws of the United States or with this act, are hereby extended to and put in force in the Territory of Oklahoma until after the adjournment of the first session of the legislative assembly of said Territory, namely: the provisions of articles two, three, and four of chapter two, entitled "Agriculture;" of chapter four, entitled "Animals;" of chapter six, entitled "Assignments;" of chapter seven, entitled "Attorneys;" of chapter ten, entitled "Bonds and oaths—official;" of chapter twelve, entitled "Chattel mortgages;" of chapter fourteen, entitled "Cities of the second class and villages;" of chapter fifteen, entitled "Common law;" of chapter six-

teen, entitled "Corporations;" of chapter eighteen, entitled "Counties and county officers;" of sections fifteen and sixteen of article six of the constitution of said State, and of chapter twenty of said laws, entitled "Courts—probate;" of chapter twenty-three, entitled "Decedents;" of chapter twenty-four, entitled "Deputies;" of chapter twenty-five, entitled "Divorce and alimony;" of chapter twenty-six, entitled "Elections;" of chapter twenty-eight, entitled "Fees;" of chapter thirty-two, entitled "Frauds;" of chapter thirty-four, entitled "Guardians and wards;" of chapter thirty-six, entitled "Homesteads;" of chapter forty-one, entitled "Instruments negotiable;" of chapter forty-four, entitled "Interests;" of chapter forty-six, entitled "Jails;" of chapter fifty, entitled "Liquors;" but no licenses shall be issued under this chapter; of chapter fifty-two, entitled "Marriage;" of chapter fifty-three, entitled "Married women;" of chapter fifty-four, entitled "Mechanics' and laborers' liens;" of chapter sixty-one, entitled "Notaries public;" of chapter sixty-two, entitled "Oaths and affirmations;" of chapter sixty-three, entitled "Occupying claimants;" of article one of chapter seventy-two, entitled "Railroads;" of chapter seventy-three, entitled "Real estate;" and the provisions of part two of said laws, entitled "Code of civil procedure," and of part three thereof, entitled "Criminal code."

The governor of said Territory is authorized to divide each county into election precincts and into such political sub-divisions other than school districts as may be required by the laws of the State of Nebraska; and he is hereby authorized to appoint all officers of such counties and sub-divisions thereof as he shall deem necessary, and all election officers until their election or appointment shall be provided for by the legislative assembly, but not more than two of the judges or inspectors of election in any election precinct shall be members of the same political party, and the candidates of each political party who may be voted for at such election may designate one person who shall be present at the counting and canvassing of the votes cast in each precinct.

The supreme and district courts of said Territory shall have the same power to enforce the laws of the State of Nebraska hereby extended to and put in force in said Territory as courts of like jurisdiction have in said State; but county courts and justices of the peace shall have and exercise the jurisdiction which is authorized by said laws of Nebraska: *Provided*, That the jurisdiction of justices of the peace in said Territory shall not exceed the sum of one hundred dollars, and county courts shall have jurisdiction in all cases where the sum or matter in demand exceeds the sum of one hundred dollars.

SEC. 12. That jurisdiction is hereby conferred upon the district courts in the Territory of Oklahoma over all controversies arising between members or citizens of one tribe or nation of Indians and the members or citizens of other tribes or nations in the Territory of Oklahoma, and any citizen or member of one tribe or nation who may commit any offense or crime in said Territory against the person or property of a citizen or member of another tribe or nation shall be subject to the same punishment in the Territory of Oklahoma as he would be if both parties were citizens of the United States; and any person residing in the Territory of Oklahoma, in whom there is Indian blood, shall have the right to invoke the aid of courts therein for the protection of his person or property, as though he were a citizen of the United States: *Provided*, That nothing in this act contained shall be so construed as to give jurisdiction to the courts established in said Territory in controversies arising between Indians of the same tribe, while sustaining their tribal relation.

SEC. 13. That there shall be appointed for said Territory a person learned in the law, who shall act as attorney for the United States, and shall continue in office for four years, and until his successor is appointed and qualified, unless sooner removed by the President. Said attorney shall receive a salary at the rate of two hundred and fifty dollars annually. There shall be appointed a marshal for said Territory, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President, and who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall have the power and perform the duties and be subject to the same regulations and penalties imposed by law on the marshal of the United States, and be entitled to a salary at the rate of two hundred dollars a year. There shall be allowed to the attorney, marshal, clerks of the supreme and district courts the same fees as are prescribed for similar services by such persons in chapter sixteen, title Judiciary, of the Revised Statutes of the United States.

SEC. 14. That the governor, secretary, chief-justice, and associate justices, attorney, and marshal shall be nominated and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace, or other officer in the limits of said Territory duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief-Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United

States and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings, and the chief-justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be recorded by him as aforesaid, and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand six hundred dollars as governor; the chief-justice and associate justices shall receive an annual salary of three thousand dollars, and the secretary shall receive an annual salary of one thousand eight hundred dollars. The said salaries shall be payable quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive four dollars each per day during their attendance at the sessions, and four dollars for each and every twenty miles traveled in going to and returning from said sessions, estimating the distance by the nearest traveled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, of the courts, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 15. That the legislative assembly of the Territory of Oklahoma shall hold its first session at Guthrie, in said Territory, at such time as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 16. That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States in the said House of Representatives. The first election shall be held at such time and place, and be conducted in such manner as the governor shall appoint and direct, after at least sixty days' notice, to be given by proclamation, and at all subsequent elections the time, place, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes of the qualified electors, as hereinbefore provided, shall be declared by the governor elected, and a certificate thereof shall be accordingly given.

SEC. 17. That the provisions of title sixty-two of the Revised Statutes of the United States relating to national banks, and all amendments thereto, shall have the same force and effect in the Territory of Oklahoma as elsewhere in the United States: *Provided*, That persons otherwise qualified to act as directors shall not be required to have resided in said Territory for more than three months immediately preceding their election as such.

SEC. 18. That sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to public schools in the State or States hereafter to be erected out of the same. In all cases where sections sixteen and thirty-six, or either of them, are occupied by actual settlers prior to survey thereof, the county commissioners of the counties in which such sections are so occupied are authorized to locate other lands, to an equal amount, in sections or fractional sections, as the case may be, within their respective counties, in lieu of the sections so occupied.

All the lands embraced in that portion of the Territory of Oklahoma heretofore known as the Public Land Strip, shall be open to settlement under the provisions of the homestead laws of the United States, except section twenty-three hundred and one of the Revised Statutes, which shall not apply; but all actual and bona fide settlers upon the occupants of the lands in said Public Land Strip at the time of the passage of this act shall be entitled to have preference to and hold the lands upon which they have settled under the homestead laws of the United States, by virtue of their settlement and occupancy of said lands, and they shall be credited with the time they have actually occupied their homesteads, respectively, not exceeding two years, on the time required under said laws to perfect title as homestead settlers.

The lands within said Territory of Oklahoma,

acquired by cession of the Muscogee (or Creek) Nation of Indians, confirmed by act of Congress approved March first, eighteen hundred and eighty-nine, and also the lands acquired in pursuance of an agreement with the Seminole Nation of Indians by re-lease and conveyance, dated March sixteenth, eighteen hundred and eighty-nine, which may hereafter be open to settlement, shall be disposed of under the provisions of sections twelve, thirteen, and fourteen of the "Act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes," approved March second, eighteen hundred and eighty-nine, and under section two of an "Act to ratify and confirm an agreement with the Muscogee (or Creek) Nation of Indians in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine: *Provided, however*, That each settler under and in accordance with the provisions of said acts shall, before receiving a patent for his homestead on the land hereafter opened to settlement as aforesaid, pay to the United States for the land so taken by him, in addition to the fees provided by law, the sum of one dollar and twenty-five cents per acre.

Whenever any of the other lands within the Territory of Oklahoma, now occupied by any Indian tribe, shall by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply: *Provided, however*, That each settler, under and in accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than one dollar and twenty-five cents per acre. The rights of honorably discharged soldiers and sailors in the late civil war, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged except as to such payment. All tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the Territory hereby created shall inure to the use or benefit of any railroad corporation, except the rights of way and land for stations heretofore granted to certain railroad corporations. Nor shall any provision of this act or any act of any officer of the United States, done or performed under the provisions of this act or otherwise, invest any corporation owning or operating any railroad in the Indian Territory, or Territory created by this act, with any land or right to any land in either of said Territories, and this act shall not apply to or affect any land which, upon any condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation.

SEC. 19. That portion of the Territory of Oklahoma heretofore known as the Public Land Strip is hereby declared a public land district, and the President of the United States is hereby empowered to locate a land office in said district, at such place as he shall select, and to appoint in conformity with existing law a register and receiver of said land office. He may also, whenever he shall deem it necessary, establish another additional land district within said Territory, locate a land office therein, and in like manner appoint a register and receiver thereof. And the Commissioner of the General Land Office shall, when directed by the President, cause the lands within the Territory to be properly surveyed and subdivided where the same has not already been done.

SEC. 20. That the procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of this act and the acts of Congress approved March first and second, eighteen hundred and eighty-nine, heretofore mentioned, shall be applicable to all entries made in said Territory, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof.

All persons who shall settle on land in said Territory, under the provisions of the homestead laws of the United States, and of this act, shall be required to select the same in square form as nearly as may be; and no person who shall at the time be seized in fee simple of a hundred and sixty acres of land in any State or Territory, shall hereafter be entitled to enter land in said Territory of Oklahoma. The provisions of sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of

the United States shall, except so far as modified by this act, apply to all homestead settlements in said Territory.

SEC. 21. That any person, entitled by law to take a homestead in said Territory of Oklahoma, who has already located and filed upon, or shall hereafter locate and file upon, a homestead within the limits described in the President's proclamation of April first, eighteen hundred and eighty-nine, and under and in pursuance of the laws applicable to the settlement of the lands opened for settlement by such proclamation, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor at the expiration of twelve months from date of locating upon said homestead upon payment to the United States of one dollar and twenty-five cents per acre for land embraced in such homestead.

SEC. 22. That the provisions of title thirty-two, chapter eight of the Revised Statutes of the United States relating to "reservation and sale of town sites on the public lands" shall apply to the lands open, or to be opened to settlement in the Territory of Oklahoma, except those opened to settlement by the proclamation of the President on the twenty-second day of April, eighteen hundred and eighty-nine: *Provided*, That hereafter all surveys for town sites in said Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns respectively when organized as municipalities: *Provided further*, That in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town-site, and if such plat shall be approved by the Secretary of the Interior, he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of ten dollars per acre for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only.

SEC. 23. That there shall be reserved public highways four rods wide between each section of land in said Territory, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey.

SEC. 24. That it shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the Territory of Oklahoma, with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished upon indictment, by imprisonment not exceeding twelve months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

SEC. 25. That inasmuch as there is a controversy between the United States and the State of Texas as to the ownership of what is known as Greer County, it is hereby expressly provided that this act shall not be construed to apply to said Greer County until the title to the same has been adjudicated and determined to be in the United States; and in order to provide for a speedy and final judicial determination of the controversy aforesaid the Attorney-General of the United States is hereby authorized and directed to commence in the name and on behalf of the United States, and prosecute to a final determination, a proper suit in equity in the Supreme Court of the United States against the State of Texas, setting forth the title and claim of the United States to the tract of land lying between the North and South Forks of the Red River where the Indian Territory and the State of Texas adjoin, east of the one hundredth degree of longitude, and claimed by the State of Texas as within its boundary and a part of its land, and designated on its map as Greer County, in order that the rightful title to said land may be finally determined, and the court, on the trial of the case may, in its discretion, so far as the ends of justice will warrant, consider any evidence heretofore taken and received by the Joint Boundary Commission under the act of Congress approved January thirty-first, eighteen hundred and eighty-five; and said case shall be advanced on the docket of said court, and proceeded with to its conclusion as rapidly as the nature and circumstances of the case permit.

SEC. 26. That the following sums, or so much thereof as may be necessary, are hereby appro-

priated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Secretary of the Interior, in the same manner that similar appropriations are disbursed in the other Territories of the United States, namely:

To pay the expenses of the first legislative assembly of said Territory, including the printing of the session laws thereof, the sum of forty thousand dollars.

To pay the salaries of the governor, the judges of the supreme court, the secretary of the Territory, the marshal, the attorney, and other officers whose appointment is provided for in this act, for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of twenty thousand dollars.

To pay for the rent of buildings for the legislative and executive offices, and for the supreme and district courts; to provide jails, and support prisoners; to pay mileage and per diem of jurors and witnesses; to provide books, records, and stationery for the executive and judicial offices for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of fifteen thousand dollars.

To enable the governor to take a census of the inhabitants of said Territory, as required by law, the sum of five thousand dollars.

To be expended by the governor in temporary support and aid of common school education in said Territory, as soon as a system of public schools have been established by the legislative assembly, the sum of fifty thousand dollars.

SEC. 27. That the provisions of this act shall not be so construed as to invalidate or impair any legal claims or rights of persons occupying any portion of said Territory, under the laws of the United States, but such claims shall be adjudicated by the Land Department, or the courts, in accordance with their respective jurisdictions.

SEC. 28. That the Constitution and all the laws of the United States not locally inapplicable shall, except so far as modified by this act, have the same force and effect as elsewhere within the United States; and all acts and parts of acts in conflict with the provisions of this act are as to their effect in said Territory of Oklahoma hereby repealed: *Provided*, That section eighteen hundred and fifty of the Revised Statutes of the United States shall not apply to the Territory of Oklahoma.

SEC. 29. That all that part of the United States which is bounded on the north by the State of Kansas, on the east by the States of Arkansas and Missouri, and on the south by the State of Texas, and on the west and north by the Territory of Oklahoma as defined in the first section of this act, shall, for the purposes of this act, be known as the Indian Territory; and the jurisdiction of the United States court established under and by virtue of an act entitled "An act to establish a United States court in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine, is hereby limited to and shall extend only over the Indian Territory as defined in this section; that the court established by said act shall, in addition to the jurisdiction conferred thereon by said act, have and exercise within the limits of the Indian Territory jurisdiction in all civil cases in the Indian Territory, except cases over which the tribal courts have exclusive jurisdiction; and in all cases on contracts entered into by citizens of any tribe or nations with citizens of the United States in good faith and for valuable consideration, and in accordance with the laws of such tribe or nation, and such contracts shall be deemed valid and enforced by such courts; and in all cases over which jurisdiction is conferred by this act or may hereafter be conferred by act of Congress; and the provisions of this act hereinafter set forth shall apply to said Indian Territory only.

SEC. 30. That for the purpose of holding terms of said court, said Indian Territory is hereby divided into three divisions, to be known as the first, second, and third division. The first division shall consist of the country occupied by the Indian tribes in the Quapaw Indian Agency and all that part of the Cherokee country east of the ninety-sixth meridian and all of the Creek country; and the place for holding said court therein shall be at Muskogee. The second division shall consist of the Choctaw country, and the place for holding said court therein shall be at South McAlester. The third division shall consist of the Chickasaw and Seminole countries, and the place for holding said court therein shall be at Ardmore. That the Attorney-General of the United States may, if in his judgment it shall be necessary, appoint an assistant attorney for said court. And the clerk of said court shall appoint a deputy clerk in each of said divisions in which said clerk does not himself reside at the place in such division where the terms of said court are to be held. Such deputy clerk shall keep his office and reside at the place appointed for holding said court in the division of such residence, and shall keep the records of said court for such division, and in the absence of the clerk may exercise all the official powers of the clerk within the division for which he is appointed: *Provided*, That the appointment of such deputies shall be approved by said United States court in the Indian Territory, and may be annulled by said court at its pleasure, and the clerk shall be responsible for the official acts and negligence of his respective deputies. The judge of said court shall hold at least two

terms of said court each year in each of the divisions aforesaid, at such regular times as said judge shall fix and determine, and shall be paid his actual traveling expenses and subsistence while attending and holding court at places other than Muskogee. And jurors for each term of said court, in each division, shall be selected and summoned in the manner provided in said act, three jury commissioners to be selected by said court for each division, who shall possess all the qualifications and perform in said division all the duties required of the jury commissioners provided for in said act. All prosecutions for crimes or offenses hereafter committed in said Indian Territory shall be cognizable within the division in which said crime or offense shall have been committed. And all civil suits shall be brought in the division in which the defendant or defendants reside or may be found; but if there be two or more defendants residing in different divisions, the action may be brought in any division in which either of the defendants resides or may be found. And all cases shall be tried in the division in which the process is returnable as herein provided, unless said judge shall direct such case to be removed to one of the other divisions: *Provided, however*, That the judicial tribunals of the Indian nations shall retain exclusive jurisdiction in all civil and criminal cases arising in the country in which members of the nation by nativity or by adoption shall be the only parties; and as to all such cases the laws of the State of Arkansas extended over and put in force in said Indian Territory by this act shall not apply.

SEC. 31. That certain general laws of the State of Arkansas in force at the close of the session of the general assembly of that State of eighteen hundred and eighty-three, as published in eighteen hundred and eighty-four in the volume known as Mansfield's Digest of the Statutes of Arkansas, which are not locally inapplicable or in conflict with this act or with any law of Congress, relating to the subjects specially mentioned in this section, are hereby extended over and put in force in the Indian Territory until Congress shall otherwise provide, that is to say, the provisions of the said general statutes of Arkansas relating to administration, chapter one, and the United States court in the Indian Territory herein referred to shall have and exercise the powers of courts of probate under said laws; to public administrators, chapter two, and the United States marshal of the Indian Territory shall perform the duties imposed by said chapter on the sheriffs in said State; to arrest and bail, civil, chapter seven; to assignment for benefit of creditors, chapter eight; to attachments, chapter nine; to attorneys at law, chapter eleven; to bills of exchange and promissory notes, chapter fourteen; to civil rights, chapter eighteen; to common and statute law of England, chapter twenty; to contempts, chapter twenty-six; to municipal corporations, chapter twenty-nine, division one; to costs, chapter thirty; to descents and distributions, chapter forty-nine; to divorce, chapter fifty-two, and said court in the Indian Territory shall exercise the powers of the circuit courts of Arkansas under this chapter; to dower, chapter fifty-two; to evidence, chapter fifty-nine; to execution, chapter sixty; to fees, chapter sixty-three; to forcible entry and detainer, chapter sixty-seven; to frauds, statute of, chapter sixty-eight; to fugitives from justice, chapter sixty-nine; to gaming contracts, chapter seventy; to guardians, curators, and wards, chapter seventy-three, and said court in the Indian Territory shall appoint guardians and curators; to habeas corpus, chapter seventy-four; to injunction, chapter eighty-one; to insane persons and drunkards, chapter eighty-two, and said court in the Indian Territory shall exercise the powers of the probate courts of Arkansas under this chapter; to joint and several obligations and contracts, chapter eighty-seven; to judgments and decrees, chapter eighty-eight; to judgments summary, chapter eighty-nine; to jury, chapter ninety; to landlord and tenant, chapter ninety-two; to legal notices and advertisements, chapter ninety-four; to liens, chapter ninety-six; to limitations, chapter ninety-seven; to mandamus and prohibition, chapter one hundred; to marriage contracts, chapter one hundred and two; to marriages, chapter one hundred and three; to married women, chapter one hundred and four; to money and interest, chapter one hundred and nine; to mortgages, chapter one hundred and ten; to notaries public, chapter one hundred and eleven, and said court in the Indian Territory shall appoint notaries public under this chapter; to partition and sale of lands, chapter one hundred and fifteen; to pleadings and practice, chapter one hundred and nineteen; to recorders, chapter one hundred and twenty-six; to replevin, chapter one hundred and twenty-eight; to venue, change of, chapter one hundred and fifty-three; and to wills and testaments, chapter one hundred and fifty-five; and wherever in said laws of Arkansas the courts of record of said State are mentioned the said court in the Indian Territory shall be substituted therefor; and wherever the clerks of said courts are mentioned in said laws the clerk of said court in the Indian Territory and his deputies, respectively, shall be substituted therefor; and wherever the sheriff of the county is mentioned in said laws the United States marshal of the Indian Territory shall be substituted therefor, for the purpose, in each of the cases mentioned, of making said laws of Arkansas applicable to the Indian Territory.

That no attachment shall issue against improvements on real estate while the title to the land is

vested in any Indian nation, except where such improvements have been made by persons, companies, or corporations operating coal or other mines, railroads, or other industries under lease or permission of law of an Indian national council, or charter, or law of the United States.

That executions upon judgments obtained in any other than Indian courts shall not be valid for the sale or conveyance of title to improvements made upon lands owned by an Indian nation, except in the cases wherein attachments are provided for. Upon a return of nulla bona, upon an execution upon any judgment against an adopted citizen of any Indian tribe, or against any person residing in the Indian country and not a citizen thereof, if the judgment debtor shall be the owner of any improvements upon real estate within the Indian Territory in excess of one hundred and sixty acres occupied as a homestead, such improvements may be subjected to the payment of such judgment by a decree of the court in which such judgment was rendered. Proceedings to subject such property to the payment of judgments may be by petition, of which the judgment debtor shall have notice as in the original suit. If on the hearing the court shall be satisfied from the evidence that the judgment debtor is the owner of improvements on real estate subject to the payment of said judgment, the court may order the same sold, and the proceeds, or so much thereof as may be necessary to satisfy said judgment and costs, applied to the payment of said judgment; or if the improvement is of sufficient rental value to discharge the judgment within a reasonable time the court may appoint a receiver, who shall take charge of such property and apply the rental receipts thereof to the payment of such judgment, under such regulations as the court may prescribe. If under such proceeding any improvement is sold only citizens of the tribe in which said property is situate may become the purchaser thereof.

The Constitution of the United States and all general laws of the United States which prohibit crimes and misdemeanors in any place within the sole and exclusive jurisdiction of the United States, except in the District of Columbia, and all laws relating to national banking associations shall have the same force and effect in the Indian Territory as elsewhere in the United States; but nothing in this act shall be so construed as to deprive any of the courts of the civilized nations of exclusive jurisdiction over all cases arising wherein members of said nations, whether by treaty, blood, or adoption, are the sole parties, nor so as to interfere with the right and power of said civilized nations to punish said members for violation of the statutes and laws enacted by their national councils where such laws are not contrary to the treaties and laws of the United States.

SEC. 32. That the word "county," as used in any of the laws of Arkansas which are put in force in the Indian Territory by the provisions of this act, shall be construed to embrace the territory within the limits of a judicial division in said Indian Territory; and whenever in said laws of Arkansas the word "county" is used, the words "judicial division" may be substituted therefor, in said Indian Territory, for the purposes of this act. And whenever in said laws of Arkansas the word "State" or the words "State of Arkansas" are used, the word "Territory," or the words 'Indian Territory," may be substituted therefor, for the purposes of this act, and for the purpose of making said laws of Arkansas applicable to the said Indian Territory; but all prosecutions therein shall run in the name of the "United States."

SEC. 33. That the provisions of chapter forty-five of the said general laws of Arkansas, entitled "Criminal law," except as to the crimes and misdemeanors mentioned in the provisos to this section, and the provisions of chapter forty-six of said general laws of Arkansas, entitled "Criminal Procedure," as far as they are applicable, are hereby extended over and put in force in the Indian Territory, and jurisdiction to enforce said provisions is hereby conferred upon the United States court therein: *Provided*, That in all cases where the laws of the United States and the said criminal laws of Arkansas have provided for the punishment of the same offenses the laws of the United States shall govern as to such offenses: *And provided further*, That the United States circuit and district courts, respectively, for the western district of Arkansas and the eastern district of Texas, respectively, shall continue to exercise exclusive jurisdiction as now provided by law in the Indian Territory as defined in this act, in their respective districts as heretofore established, over all crimes and misdemeanors against the laws of the United States applicable to the said Territory, which are punishable by said laws of the United States by death or by imprisonment at hard labor, except as otherwise provided in the following sections of this act.

SEC. 34. That original jurisdiction is hereby conferred upon the United States court in the Indian Territory to enforce the provisions of title twenty-eight, chapters three and four, of the Revised Statutes of the United States in said Territory, except the offenses defined and embraced in sections twenty-one hundred and forty-two and twenty-one hundred and forty-three: *Provided*, That as to the violations of the provisions of section twenty-one hundred and thirty-nine of said Revised Statutes, the jurisdiction of said court in the Indian Territory shall be concurrent with the

jurisdiction exercised in the enforcement of such provisions by the United States courts for the western district of Arkansas and the eastern district of Texas; *Provided*, That all violations of said chapters three and four, prior to the passage of this act, shall be prosecuted in the said United States courts, respectively, the same as if this act had not been passed.

SEC. 35. That exclusive original jurisdiction is hereby conferred upon the United States court in the Indian Territory to enforce the provisions of chapter four, title seventy, of the Revised Statutes of the United States entitled "Crimes against justice," in all cases where the crimes mentioned therein are committed in any judicial proceeding in the Indian Territory and where such crimes affect or impede the enforcement of the laws in the courts established in said Territory: *Provided*, That all violations of the provisions of said chapter prior to the passage of this act shall be prosecuted in the United States courts for the western district of Arkansas and the eastern district of Texas, respectively, the same as if this act had not been passed.

SEC. 36. That jurisdiction is hereby conferred upon the United States court in the Indian Territory over all controversies arising between members or citizens of one tribe or nation of Indians and the members or citizens of other tribes or nations in the Indian Territory, and any citizen or member of one tribe or nation who may commit any offense or crime against the person or property of a citizen or member of another tribe or nation shall be subject to the same punishment in the Indian Territory as he would be if both parties were citizens of the United States. And any member or citizen of any Indian tribe or nation in the Indian Territory shall have the right to invoke the aid of said court therein for the protection of his person or property as against any person not a member of the same tribe or nation, as though he were a citizen of the United States.

SEC. 37. That if any person shall, in the Indian Territory, open, carry on, promote, make or draw, publicly or privately, any lottery, or scheme of chance of any kind or description, by whatever name, style or title the same may be denominated or known, or shall, in said Territory, vend, sell, barter or dispose of any lottery ticket or tickets, order or orders, device or devices, of any kind, for, or representing any number of shares or any interest in any lottery or scheme of chance or shall open or establish as owner or otherwise any lottery or scheme of chance in said Territory, or shall be in any wise concerned in any lottery or scheme of chance, by acting as owner or agent in said Territory, for or on behalf of any lottery or scheme of chance, to be drawn, paid or carried on, either out of or within said Territory, every such person shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined for the first offense, not exceeding five hundred dollars, and for the second offense shall, on conviction, be fined not less than five hundred dollars and not exceeding five thousand, and he may be imprisoned, in the discretion of the court, not exceeding one year. And jurisdiction to enforce the provisions of this section is hereby conferred upon the United States court in said Indian Territory, and all persons therein, including Indians and members and citizens of Indian tribes and nations, shall be subject to its provisions and penalties.

SEC. 38. The clerk and deputy clerks of said United States court shall have the power within their respective divisions to issue marriage licenses or certificates and to solemnize marriages. They shall keep copies of all marriage licenses or certificates issued by them, and a record book in which shall be recorded all licenses or certificates after the marriage has been solemnized, and all persons authorized by law to solemnize marriages shall return the license or certificate, after executing the same, to the clerk or deputy clerk who issued it, together with his return thereon. They shall also be ex-officio recorders within their respective divisions, and as such they shall perform such duties as are required of recorders of deeds under the said laws of Arkansas, and receive the fees and compensation therefor which are provided in said laws of Arkansas for like service: *Provided*, That all marriages heretofore contracted under the laws or tribal customs of any Indian nation now located in the Indian Territory are hereby declared valid, and the issue of such marriages shall be deemed legitimate and entitled to all inheritances of property or other rights, the same as in the case of the issue of other forms of lawful marriage: *Provided further*, That said chapter one hundred and three of said laws of Arkansas shall not be construed so as to interfere with the operation of the laws governing marriage enacted by any of the civilized tribes, nor to confer any authority upon any officer of said court to unite a citizen of the United States in marriage with a member of any of the civilized nations until the preliminaries to such marriage shall have first been arranged according to the laws of the nation of which said Indian person is a member: *And provided further*, That where such marriage is required by law of an Indian nation to be of record, the certificate of such marriage shall be sent for record to the proper officer as provided in such law enacted by the Indian nation.

SEC. 39. That the United States court in the Indian Territory shall have all the powers of the United States circuit courts or circuit court judges

to appoint commissioners within said Indian Territory, who shall be learned in the law, and shall be known as United States commissioners; but not exceeding three commissioners shall be appointed for any one division, and such commissioners when appointed shall have, within the district to be designated in the order appointing them, all the powers of commissioners of circuit courts of the United States. They shall be ex-officio notaries public, and shall have power to solemnize marriages. The provisions of chapter ninety-one of the said laws of Arkansas, regulating the jurisdiction and procedure before justices of the peace, are hereby extended over the Indian Territory; and said commissioners shall exercise all the powers conferred by the laws of Arkansas upon justices of the peace within their districts; but they shall have no jurisdiction to try any cause where the value of the thing or the amount in controversy exceeds one hundred dollars.

Appeals may be taken from the final judgment of said commissioners to the United States court in said Indian Territory in all cases and in the same manner that appeals may be taken from the final judgments of justices of the peace under the provisions of said chapter ninety-one. The said court may appoint a constable for each of the commissioner's districts designated by the court, and the constable so appointed shall perform all the duties required of constables under the provision of chapter twenty-four and other laws of the State of Arkansas. Each commissioner and constable shall execute to the United States, for the security of the public, a good and sufficient bond, in the sum of five thousand dollars, to be approved by the judge appointing him, conditioned that he will faithfully discharge the duties of his office and account for all moneys coming into his hands, and he shall take an oath to support the Constitution of the United States and to faithfully perform the duties required of him.

The appointments of United States commissioners by said court held at Muscogee, in the Indian Territory, heretofore made, and all acts in pursuance of law and in good faith performed by them, are hereby ratified and validated.

SEC. 40. That persons charged with any offense or crime in the Indian Territory, and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken, for preliminary examination, before the commissioner in the judicial division whose office or place of business is nearest by the route usually traveled to the place where the offense or crime was committed; but this section shall apply only to crimes or offenses over which the courts located in the Indian Territory have jurisdiction: *Provided*, That in all cases where persons have been brought before a United States commissioner in the Indian Territory for preliminary examination, charged with the commission of any crime therein and where it appears from the evidence that a crime has been committed, and that there is probable cause to believe the accused guilty thereof, but that the crime is one over which the courts in the Indian Territory have no jurisdiction, the accused shall not, on that account, be discharged, but the case shall be proceeded with as provided in section ten hundred and fourteen of the Revised Statutes of the United States.

SEC. 41. That the judge of the United States court in the Indian Territory shall have the same power to extradite persons who have taken refuge in the Indian Territory, charged with crimes in the States or other Territories of the United States, that may now be exercised by the governor of Arkansas in that State, and he may issue requisitions upon governors of States and other Territories for persons who have committed offenses in the Indian Territory, and who have taken refuge in such States or Territories.

SEC. 42. That appeals and writs of error may be taken and prosecuted from the decisions of the United States court in the Indian Territory to the Supreme Court of the United States in the same manner and under the same regulations as from the circuit courts of the United States, except as otherwise provided in this act.

SEC. 43. That any member of any Indian tribe or nation residing in the Indian Territory may apply to the United States court therein to become a citizen of the United States, and such court shall have jurisdiction thereof and shall hear and determine such application as provided in the statutes of the United States; and the Confederated Peoria Indians residing in the Quapaw Indian Agency, who have heretofore or who may hereafter accept their land in severalty under any of the allotment laws of the United States, shall be deemed to be, and are hereby, declared to be citizens of the United States from and after the selection of their allotments, and entitled to all the rights, privileges, and benefits as such, and parents are hereby declared from that time to have been and to be the legal guardians of their minor children without process of court: *Provided*, That the Indians who become citizens of the United States under the provisions of this act do not forfeit or lose any rights or privileges they enjoy or are entitled to as members of the tribe or nation to which they belong.

SEC. 44. That the following sum, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Attorney-General of the United States, in

the same manner that similar appropriations are disbursed in the other Territories of the United States, namely:

To pay the actual traveling and other expenses of the judge of the United States court holding court in said Indian Territory other than at Muscogee; to pay for the rent of buildings for the court; to provide jails and support prisoners; to pay mileage and per diem of jurors and witnesses; to provide books, records and stationery for the judicial offices for the remainder of the fiscal year ending June thirtieth, eighteen hundred and ninety, the sum of ten thousand dollars.

Approved, May 2, 1890.

CHAPTER XXIII

EXPANSION OF OKLAHOMA TERRITORY; CESSION AND OPENING OF INDIAN RESERVATIONS

The Oklahoma country opened to settlement on April 22, 1889, contained approximately 1,800,000 acres. The area embraced within the limits of Oklahoma territory as defined and organized by the act of May 2, 1890, (including the then disputed Greer county), contained 38,830 square miles or nearly twenty-five million acres. By the inclusion of No Man's land, which was public domain, (containing about 3,700,000 acres), the total area open to occupation by settlers at the beginning of Oklahoma's territorial existence was about five and a half million acres. Thus only a fifth of the territory was under complete territorial jurisdiction; the remainder was still held by the Indian tribes as reservations, from which white settlers were excluded.

Another reference to the distinction between the original Oklahoma lands and the rest of the region included in Oklahoma territory will assist to a clear understanding of what follows. At the time of the opening and for some time previously, the Oklahoma country was unoccupied by its Indian possessors. These lands had been ceded in 1866 by the Creeks to be used as reservations for other friendly tribes. But they had never been diverted for that purpose, and hence, as soon as the contract for their sale to the government was concluded, they were at once open to settlement. The same was not true of the other Indian lands in Oklahoma territory. The Kickapoos, Pottawatomies, Cheyennes, Comanches and other tribes actually resided on their reservations, and their rights to homesteads had to be safeguarded before the residue of their lands could be brought within the operation of the general land laws regulating the settlement of public domain. For this reason the opening of the other lands of Oklahoma territory was subject to delays and was effected piecemeal.

Over seventeen years elapsed between the original opening and the sale and settlement of the Big Pasture, which was the last of the reservations. In this time, the extension of settlement over Oklahoma proceeded by eight stages, requiring eight presidential proclamations for the opening of as many additions to the public domain. These openings were as follows:

September 22, 1891, the Iowa, Sac and Fox, and Pottawatomie reservations, lying east of the original Oklahoma, from which Lincoln and Pottawatomie counties were created.

April 19, 1892, the Cheyenne and Arapahoe reserves, lying west of original Oklahoma, from which the modern counties of Blaine, Custer, Dewey, Day, Roger Mills, Washita were created.

September 16, 1893, the Cherokee strip, comprising the present counties of Pawnee, Noble, Kay, Grant, Garfield, Woods and Woodward.

May 23, 1895, the Kickapoo reserve,

these lands lying in the counties already organized as Lincoln and Pottawatomie.

March 16, 1896, when, by the decision of the United States supreme court, Greer county was finally given to Oklahoma. (This was not an "opening" in the regular sense.)

August 6, 1901, the Kiowa, Comanche and Apache, and Wichita reservations, making the counties of Kiowa, Comanche and Caddo (the limits of which were changed by statehood.)

In 1904, the Otoe, Ponca, Missouria and Kaw reserves, lying in Kay, Noble and Pawnee counties.

December 6, 1906, the Big Pasture, comprising half a million acres in the southwest part of Oklahoma territory.

Before entering upon a detailed description of these various extensions of Oklahoma's settled area, it will be necessary to consider the methods provided by Congress for the assignment of homesteads to the Indian residents and the division of the surplus lands in each reservation among other settlers, thus anticipating in part the discussion in the following chapter. By an act approved February 8, 1887, Congress had enacted a general allotment law, the chief provisions of which had a direct bearing on the opening of the Oklahoma reservations, an object which was no doubt intended by the promoters of the bill. Under this legislation the president was given authority to cause any Indian reservation to be surveyed and its lands allotted in severalty to its Indian residents. It is to be noted that the provisions of this act were distinctly declared not to apply to the five civilized tribes, nor to the Osages and several minor tribes in Indian Territory. The allotted lands were to be patented to the Indians without privilege of alienation within a period of twenty-five years. After the allotments had been made, or even sooner if the president saw fit, the secretary of interior might negotiate for the sale of the surplus lands, and all agricultural lands thus released to the United States were to be disposed of to bona fide settlers in quarter-section tracts.[1]

By this bill were provided the means by

[1] In the report of the commissioner of Indian affairs for 1887 is an abstract of the allotment law "An act to provide for the allotment of lands in severalty to Indians on the various reservations, etc.," approved February 8, 1887. It follows:

The president may, in his discretion, have any Indian reservation or any part thereof surveyed or resurveyed, and the lands of such reservation allotted in severalty to any Indians located thereon.

The size of the allotments shall be: to each head of a family, one-quarter of a section; to each single person over eighteen and each orphan under eighteen years of age, one-eighth of a section; to each other single person born prior to the date of the presidential order directing an allotment of lands upon the reserve, one-sixteenth of a section. (By an act of February 28, 1891, Congress changed this inequitable allotment, and secured a fair division of tribal property, each member of the tribe having an equal share.)

If the reserve is too small to allow the giving of allotments as above, the size of allotments shall be reduced pro rata. If any treaty or act has provided for larger allotments on any reservation, the provisions of such treaty or act shall be observed. If the lands allotted are valuable only for grazing, the size of the allotments shall be doubled. If irrigation is necessary, the secretary of the interior may prescribe rules for a just distribution among the Indians of the water supply.

Selections of allotments shall be made by Indians, heads of families selecting for their minor children, but agents shall select for orphans. The lands selected shall embrace the improvements made thereon by the respective Indians.

If on one legal subdivision of land two or more Indians have made improvements the tract may be divided between them and a further assignment of lands be made to them to complete the amount to which each is entitled.

If within four years after the president shall have directed allotments on a reservation any Indian belonging thereto shall have failed to make his selection, the agent, or if there is none a

which the government might proceed with the settlement of the problems of Indian land ownership, and gradually accomplish the ends for which certain organized interests had been striving both in and out of Congress for years. When the objects proposed by this law were attained, practically half of the Indian Territory would be dedicated to occupation by the whites. Along these lines the efforts of the government were henceforth directed until, one after another, the Indian reservations were merged into civilized country and the tribes themselves brought to the conditions of individual citizenship.

In 1890 negotiations were completed with four tribes in Oklahoma for the allotment of their lands. These were the Sac

special agent, may make the selection for such Indian, and the tract so selected shall be allotted to him.

Allotments shall be made by the agents in charge of the respective reservations, and also by special agents appointed by the president for the purpose, according to rules which the secretary of the interior may prescribe, and the allotments shall be certified by the agents in duplicate, one copy for the Indian and one for the land office files.

Any Indian not residing on a reservation, or for whose tribe no reservation has been provided, may settle upon unappropriated government land and have the same allotted and patented to him and his children, in quantity and manner above set forth, and entry fees therefor shall be paid by the United States.

When the secretary of the interior shall have approved the allotments made, then patents for such lands, recorded in the general land office, shall be issued to the respective allottees, declaring that the United States will hold said lands in trust for their sole use and benefit for twenty-five years, and at the end of that time will convey them, without charge, to said allottees or their heirs, in fee and free of all incumbrance; the president, however, may in his discretion extend the period beyond twenty-five years.

After patents have been delivered the laws of descent and partition of the state or territory in which the lands are located shall apply to said lands; the laws of Kansas applying to lands allotted in the Indian Territory.

After lands have been allotted to all Indians of a tribe (or sooner if the president thinks best), the secretary of the interior may negotiate with that tribe for the sale of any of their unallotted lands, such negotiations to be subject to ratification by Congress.

In case lands are thus sold, the purchase money to the paid therefor by the United States shall be held in the United States treasury, in trust for that tribe, at 3 per cent interest, which interest shall be subject to appropriation by Congress for the civilization of said tribe.

Any religious society or other organization now occupying, for religious or educational work among Indians, any lands to which this act applies, may be confirmed by the secretary of the interior in the occupation of such lands, in quantity not exceeding 160 acres in any one tract, on such terms as he shall deem just, and so long as the organization occupies the land for the above-named purposes; but this does not alter any right heretofore granted by law to any such organization.

All lands adapted to agriculture released to the United States by Indian tribes shall be disposed of only to bona fide settlers, in tracts not exceeding 160 acres (subject to grants which Congress may make in aid of education), and no patents shall issue to any such settler or his heirs for such lands until after five years' continuous occupancy thereof as a homestead, and any conveyance of or lien on said land prior to the issuance of patent thereto shall be null and void.

After receiving his patent every allottee shall have the benefit of and be subject to the civil and criminal laws of the state or territory in which he may reside; and no territory shall deny any Indian equal protection of law; and every Indian born in the United States who has received an allotment under this or any other law or treaty, or who has taken up his residence separate from a tribe and adopted the habits of civilized life, is declared a citizen of the United States, but citizenship shall not impair any rights he may have in tribal property.

The provisions of this act shall not extend to the five civilized tribes, nor the Osages, Miamis, Peorias, and Sac and Fox in the Indian Territory.

For necessary surveys or resurveys of reservations $100,000 is appropriated, to be repaid to the United States treasury from proceeds of sales of such lands as may be acquired from Indians under the provisions of this act.

The power of Congress to grant right of way to railroads, other highways, or telegraph lines through Indian reservations is not impaired by this act.

and Fox, the Iowa, the Citizen Pottawatomie, and the Absentee Shawnee. The Sac and Fox agreement was made June 12, 1890. By its terms, each citizen was to be allotted 160 acres, eighty acres to be held in trust twenty-five years and eighty acres to be held in trust five years before patents were issued and restrictions removed from free disposition by Indians. Also sections 16 and 36 in each township were reserved for schools.

The Iowa reserve was ceded May 20, 1890. (Its limits were those described in executive order August 15, 1883, elsewhere given.) Each member of tribe was to be allotted eighty acres, besides the ten acres at the Iowa village.

The citizen Pottawatomies ceded their lands on June 25, 1890.[2]

The Absentee Shawnee on June 26, 1890, had ceded their titles to the lands comprised within the reserve of the Citizen Pottawatomies.

The work of allotting the lands of these reservations was undertaken in the spring of 1891. Some of the Indians manifested suspicion and a degree of actual hostility to the work of the agents and surveyors, but the opposition was usually overcome by quiet persuasion. In the Sac and Fox reserve, 549 allotments were made, consuming 87,840 acres, and leaving a residue of about 385,000 acres to be opened to settlement. Among the Iowas 111 allotments were made, amounting to 8,880 acres, leaving a surplus of about 216,000 acres. The Shawnees were divided into two parties, the Upper, under the leadership of Big Jim, and the Lower, with White Turkey as chief. The former stubbornly refused to deal with the allotting agent, and the selection of homesteads for the 195 members of this faction devolved upon the agents. The Lower party readily accepted the allotment plan, and to the number of 368 selected their own homes. The Citizen band of Pottawatomies were the first Indians of Indian Territory among whom the scheme of allotment was attempted, and it was from this fact that they derived their distinguishing name. The act under which their allotments were sought to be made was dated May 23, 1872, but as the plan was new most of them did not take individual homes until after the agreement above mentioned. Only 106 received allotments under the old law, and 1,363 under the law of 1887, making a total of 1,469 to receive land on their reservation. The homes of the Absentee Shawnee were also located on this reservation, whose area was 575,000 acres, so that the residue left for settlement was about 275,000 acres.

There thus remained, after the members of these tribes had been given homesteads, a little less than 900,000 acres, which, by law, should be sold to settlers. The act of February 30, 1891, ratifying the Sac and Fox and Iowa cessions, provided:

"That whenever any of the lands acquired

[2] Their cession was bounded as follows:

Beginning at a point on the right bank of the North Fork of the Canadian river, in section twenty-one, on Township Eleven North, Range Five East, where the western boundary line of the Seminole Reservation strikes said river; thence south with said boundary line to the left bank of the Canadian river; thence up said river along the left bank thereof, to a point on said left bank, in the northeast quarter of section thirty-six, Township Six North, Range One West, thirty-nine chains and eighty-two links (by the meanders of the river west), from the point where the Indian Meridian intersects said river, or thirty-eight chains and fifty-two links due west from said Indian meridian; thence north as run by O. T. Morrill, under his contract of September third, eighteen hundred and seventy-two, to a point on the right bank of the North Fork of the Canadian river; thence down said river, along the right bank thereof, to the place of beginning.

by the agreements in this act ratified and confirmed, shall by operation of law or proclamation of the president of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead laws, except section twenty-three hundred and one, which shall not apply: Provided, however, that each settler, under and in accordance with the provisions of said homestead laws, shall, before receiving a patent for his homestead, pay to the United States for the land, so taken by him, in addition to the fees provided by law, the sum of one dollar and twenty-five cents for each acre thereof, and such person having complied with all the laws relating to such homestead settlement, may at his option receive a patent therefor at the expiration of twelve months from date of settlement upon said homestead, and any person otherwise qualified who has attempted to, but for any cause failed to secure a title in fee to a homestead under existing law, or who made entry under what is known as the commuted provision of the homestead law shall be qualified to make a homestead entry upon any of said lands."

In the case of the Pottawatomie and Shawnee surplus lands, the same provisions applied except that the settlers were to pay $1.50 per acre, one-half to be paid in two years.

The provisions of the agreements with the four tribes having been carried out during the summer of 1891, President Harrison on the 18th of September issued his proclamation "that all of the lands acquired from the Sac and Fox Nation of Indians, the Iowa tribe of Indians, the Citizen Band of Pottawatomie Indians, and the Absentee Shawnee Indians, by the four several agreements aforesaid, saving and excepting the lands allotted to the Indians as in said agreements provided, or otherwise reserved in pursuance of the provisions of said agreements and the said acts of Congress ratifying the same, and other, the laws relating thereto, will, at and after the hour of twelve o'clock noon (central standard time), Tuesday, the twenty-second day of this, the present month of September, and not before, be opened to settlement, under the terms of and subject to all the conditions, limitations, reservations, and restrictions contained in said agreements, the statutes above specified, and the laws of the United States applicable thereto."

The territory opened by this proclamation lay, by a general description of boundaries, east of the Indian meridian, between the Cimarron river on the north, and the main Canadian on the south, and extended east to the Creek and Seminole nations of Indian Territory; excepting, however, the Kickapoo reserve which was not opened until May 25, 1895.

A recurrence of townsite troubles took place in the opening of these reserves. Governor Steele, in his first annual report, says: "At the recent opening of Tecumseh and Chandler there were at least five thousand people at each place waiting for the signal to be given for entering said townsites containing twenty-four hundred lots, good and bad. A very large proportion of those intending to enter the sites were anxious to go in on foot, to avoid the danger incident to riding in on horseback or in wagons and vehicles of various kinds; but there is no law to compel them to do so . . . one man was killed by his own horse falling on him; others were more or less injured . . . . but the real settlers are in too many instances deterred from attempting to get a lot or a home from the very fact that horsemen are allowed to ride in. Every man (and

woman, for that matter) who can be at these openings and enjoy the excitement is there, hoping in the mad rush he or she may get a lot, or a block of lots, and sell to some party really intending to settle."

The 900,000 acres opened to settlement on September 22, 1891, was occupied as quickly as the Oklahoma country had been, and the towns of Tecumseh and Chandler and others sprang up in a day. Part of the lands thus settled were in the south half of Payne county, and the rest was divided into two counties, at first designated county A (Lincoln) and county B (Pottawatomie.)

In October, 1890, the Cheyenne and Arapahoe tribes had agreed to the allotment and cession of their lands. But this work was marked by difficulties and delays. Says Governor Steele in his report of October, 1891: "On account of a great many of the Indians refusing to take their allotments, much delay has been caused in the allotting of lands to the Cheyennes and Arapahoes, and I am informed that the appropriation for making these allotments is practically exhausted. Unless it is possible to make other arrangements to throw these lands open to settlement early next spring so that settlers may raise a crop next year, it will mean great hardship . . . among the hundreds of settlers who have been along the borders for weeks, and in many instances months, waiting for homes; they are being joined by hundreds more, who have been waiting around the borders of the lands on the east recently opened to settlement . . . . but on account of there not being nearly as many quarter sections as there were settlers, they were disappointed. On account of treaties having been made and published to the country, these settlers had a right to expect they might settle new homes in the territory this fall."

Notwithstanding the need of haste presented in this description by the governor, the lands of the Cheyennes and Arapahoes were not opened until late in the spring of 1892, too late for the cultivation of a full crop. The surplus lands after allotment were over four million acres, which were offered as homesteads by the president's proclamation of April 12, 1892:

"Now, therefore, I, Benjamin Harrison, President of the United States, do hereby declare and make known that all of said lands hereinbefore described, acquired from the Cheyenne and Arapahoe Indians by the agreement aforesaid, saving and excepting the lands allotted to the Indians as in said agreement provided; excepting also the lands hereinbefore described as occupied and claimed by the Wichita and affiliated bands of Indians, or otherwise reserved in pursuance of the provisions of said agreement and the said act of Congress ratifying the same, and other the laws relating thereto, will at the hour of twelve o'clock noon (central time) Tuesday, the nineteenth day of the present month of April, and not before, be opened to settlement under the terms of and subject to all the conditions, limitations, reservations, and restrictions contained in said agreement, the statutes above specified, and the laws of the United States applicable thereto."

The opening of the Cheyenne and Arapahoe country was not attended with the same rush of settlers for homes as the two previous openings had been. In the eastern part of the reservation the quarter sections were quickly taken up. But there was a prejudice against the more western lands, based largely on the experience of settlers with western Kansas lands. As a result the settlement of the counties bordering on the Texas Panhandle went on slowly for

many years, and in fact the greater part of the population of the present counties of Ellis, Dewey, Roger Mills has come within the past six or seven years.

The Cherokee commission, authorized by the law of March 2, 1889, was organized on June 29th following, and consisted of Lucius Fairchild of Wisconsin, Warren G. Sayre of Indiana (appointed vice ex-Governor Hartranft of Pennsylvania, deceased) and Alfred M. Wilson of Arkansas.

The commission was appointed to "negotiate with the Cherokee Indians, and with all other Indians owning or claiming lands lying west of the 96th degree of longitude in Indian Territory, for the cession to the United States of all their title, claim or interest of every kind and character in and to said lands." In August, 1889, the commission made a proposition to Chief J. B. Mayes for the cession of all the Cherokee lands thus described, being that portion known as the Cherokee Outlet or Strip. The proposition was declined on the ground that the Cherokee constitution forbade its consideration.[3]

Other tribes were approached for a similar purpose, and the work of this commission, continued for several years, brought about the cessions from other tribes which finally threw open to settlement the greater portion of the country included within the lines of the original Oklahoma territory.

A very strong influence was brought to bear upon the Cherokees to force the cession of the Outlet. The attorney general had rendered a decision denying the right of Indian tribes to lease their lands without permission of the government. President Harrison, by his proclamation of February 17, 1890, ordered all cattlemen to vacate the strip, and thus summarily cut off the income to the Cherokees, amounting, it

[3] That the cattle syndicate was the principal obstructing cause in preventing the success of the negotiations between the Cherokee commission and the Indians was stated by President Harrison in his message in December, 1889. He said: "The cattle syndicate now occupying the lands for grazing purposes is clearly one of the agencies responsible for the obstruction of our negotiations with the Cherokees. The large body of agricultural lands known as the 'Cherokee Outlet' ought not to be, and, indeed, cannot long be, held for grazing and the advantage of a few against the public interests and the best advantages of the Indians themselves. The United States has now under the treaties certain rights in these lands. These will not be used oppressively, but it cannot be allowed that those who by sufferance occupy these lands shall interpose to defeat the wise and beneficent purposes of the government. I cannot but believe that the advantageous character of the offer made by the United States to the Cherokee Nation for a full release of these lands as compared with other suggestions now made to them will yet obtain for it favorable consideration."

[4] WHEREAS, That portion of the Indian Territory, commonly known as the Cherokee Strip or Outlet, has been for some years in the occupancy of an association, or associations, of white persons under certain contracts, said to have been made with the Cherokee Nation in the nature of a lease or leases for grazing purposes; and

WHEREAS, An opinion has been given to me by the attorney general, concurring with the opinion given to my predecessor by the late attorney general, that whatever the right or title of said Cherokee Nation or of the United States to or in said lands may be, no right exists in said Cherokee Nation under the statutes of the United States to make such leases or grazing contracts, and that such contracts are wholly illegal and void; and

. . . . .

First. That no cattle or live stock shall hereafter be brought upon said lands for herding or grazing thereon;

Second. That all cattle and other live stock now on said Outlet must be removed therefrom not later than October 1, 1890, and so much sooner as said lands or any of them may be or become lawfully open to settlement by citizens of the United States; and that all persons connected with said cattle companies or associations must, not later than the time above indicated, depart from said lands.

is said, to $150,000 a year. This measure, together with the urgent demands made by the would-be settlers then encamped on the borders of the strip, forced the Cherokees to terms, and a second proposition for the cession of the strip was finally accepted by the national council on January 4, 1892. The consideration was nearly $8,600,000, or about $1.25 an acre.

December 19, 1891, the Cherokees by agreement with United States commissioners, yielded the cession of "that part of the Indian Territory bounded on the west by the one hundredth degree (100°) of west longitude; on the north by the state of Kansas; on the east by the ninety-sixth degree (96°) of west longitude; and on the south by the Creek Nation, the Territory of Oklahoma and the Cheyenne and Arapahoe Reservation created or defined by executive order dated August 10th, eighteen hundred and sixty-nine."

The agreement, as amended by Congress March 3, 1893, was ratified by the council May 17, 1893. Reservation was provided for allotment of eighty acres each to not more than seventy Cherokee citizens who had been residents and had permanent improvements on lands prior to November 1, 1891.

The Tonkawa Indians, whose reservation consisted of four townships (Ts 25 and 26 N, R 1 W, and Ts 25 and 26 N, R 2 W) that had been conveyed by the Cherokees to the United States in trust for the Nez Perces on June 14, 1883, made an agreement October 21, 1891, for the cession of their lands after the allotment to the members of the tribe.

By agreement November 23, 1892, the Pawnee tribe relinquished their title and consented to allotment in severalty of their reserve consisting of 17 townships between the Cimarron and Arkansas rivers (Ts 21, 22, 23, 24 N, R 4 E, Ts 18, 19, 20, 21, 22, 23, 24 N, R 5 E, and Ts 18, 19, 20, 21, 22, 23 N, R 6 E).

These three cessions were to open at the same time, with the regular provisions for reserved lands for schools, military reserves, etc.

The proclamation for opening, dated August 19, 1893, was as follows:

"Now, therefore, I, Grover Cleveland, president of the United States, by the virtue of the power in me vested by the statutes hereinbefore mentioned, and by other the laws of the United States, and by said several agreements, do hereby declare and make known that all the lands acquired from the Cherokee Nation of Indians, the Tonkawa tribe of Indians, and the Pawnee tribe of Indians, by the three several agreements aforesaid, will at the hour of twelve o'clock noon (central time) on Saturday, the sixteenth day of the month of September, A. D., eighteen hundred and ninety-three, and not before, be opened to settlement under the terms of and subject to all the conditions, limitations, reservations, and restrictions contained in said agreements, the statutes above specified, the laws of the United States applicable thereto and the conditions prescribed by this proclamation, saving and excepting lands . . . . ." (The excepted lands were the Osage reserve, the Otoe and Missouria reserve, the Ponca reserve, and eastern, middle and western Saline reserves.)[5]

[5] The Saline reserves were withheld because of leases made by the Cherokee Nation prior to March 3, 1893, but it later appeared that the leases were never legally approved. July 27, 1898, accordingly, President McKinley restored the reserves to the public domain to be disposed of according to the policy of the government regarding Saline lands.

The regulations for opening were described by law as follows:

"A strip of land, one hundred feet in width, around and immediately within the outer boundaries of the entire tract of country, to be opened to settlement under this proclamation, is hereby temporarily set apart for the following purposes and uses, viz:

"Said strip, the inner-boundary of which shall be one hundred feet from the exterior boundary of the country known as the Cherokee Outlet, shall be open to occupancy in advance of the day and hour named for the opening of said country, by persons expecting and intending to make settlement pursuant to this proclamation. Such occupancy shall not be regarded as trespass, or in violation of this proclamation or of the law under which it is made; nor shall any settlement rights be gained thereby.

"The commissioner of the general land office shall, under the direction of the secretary of the interior, establish on said one hundred foot strip booths, to be located as follows: One in Tp. 29 N., R. 2 E.; one in Tp. 29 N., R. 2 W.; one in Tp. 29 N., R. 4 W.; one in Tp. 29 N., R. 8 W.; one in Tp. 29 N., R. 12 W.; one in Tp. 20 N., R. 3 E.; one in Tp. 20 N., R. 2 W.; one in Tp. 20 N., R. 7 W.; and one in Tp. 20 N., R. 26 W., and shall place in charge thereof three officers to each booth, who shall be detailed from the general land office. Said booths shall be open for the transaction of business on and after Monday the eleventh day of the month of September, A. D., eighteen hundred and ninety-three, from 7 a. m. to 12 m. and 1 p. m. to 6 p. m., each business day, until the same shall be discontinued by the secretary of the interior, who is hereby authorized to discontinue the same at his discretion."

The intending settlers were required to make declarations of qualifications in presence of the booth officials. The declaration blanks having been signed, a certificate was issued, being in the nature of a permit to enter the lands at the time fixed for the opening.

On Monday, September 11, the registration booths were opened for the issue of registration certificates. At the booths at Arkansas City men had waited in line since the preceding Saturday. The weather was extremely warm, there had been no rain for some days, and along the narrow lane set apart for the booths and the waiting crowds, the ground was trampled into fine dust that rose in clouds and covered face and clothing until men were unrecognizable. Holding their places in lines a mile long, men suffered from thirst that was relieved with water at 10 cents a cup, bought from vendors who passed up and down. Weak lemonade and poor quality of food was also furnished in like manner. There were some in the lines who were without money to buy these necessities, and several instances were reported where persons were overcome and fell in their tracks. One fact should be noted: In spite of all these inconveniences, the sufferings of heat and thirst, and the extreme physical fatigue, good nature and the usual chaffing and easy wit of an American crowd prevailed over the grumbling and complaints of the weary and ill-tempered. Chivalrous conduct was often manifested, when men readily yielded their precedence to women further back in line.

At Arkansas City the booth clerks issued between 200 and 300 certificates an hour, but as the crowd numbered thousands and was constantly increasing, it seemed impossible to accommodate them, and many with-

drew to other points. Similar scenes were enacted at Hunnewell, Caldwell, Orlando, Kiowa, and other places around the strip. The hardships endured about the registration booths are described in a dispatch sent to the interior department on the 13th by the newspaper correspondents at Arkansas City:

"In the name of the papers we represent we respectfully request that you take immediate steps to alleviate the suffering of the homeseekers who are seeking registration at Booth 9, near this city. The booth is situated on a dusty road, four miles from water and shelter. The weather is extremely hot, and a regular Kansas hot wind is blowing. The suffering is great. A large number of the homeseekers have been stricken down, and some of them have died. Registration is progressing so slowly that thousands of men are compelled to stand in line for days, exposed to the sun, dust and thirst. Can you not cause the booth to be removed to this city and put on a larger force of clerks, or abandon registration at once? For the honor and welfare of the administration we beg you to take immediate action." On the following day additional clerks were employed and several other booths opened, but even so the crowd increased too fast for the accommodations.

Throughout this week the work of registration went on at all the booths until certificates were issued to over one hundred thousand persons. In the meantime, the congestion at the different points of entry into the strip had increased to the point of danger. Troops of cavalry were patrolling the entire border, acting as guards at the booths, or engaged in scouring the interior in search of "sooners." Every day or so a party of the latter would be brought out, their personal descriptions taken, and then turned loose, generally to return and try again to anticipate the rush. Traffic in booth certificates was freely charged, and no doubt practiced, many selling the certificates and their chances for homesteads for a sum that could hardly compensate for the hardships endured to obtained them. Petty frauds and bribing were also perpetrated in getting certificates. Some of the guards had a system of password and signal, and those who were on the "inside" of the system were able to get certificates without the inconveniences of delay, the cost of such favors running from fifty cents to two dollars.

When Saturday, the 16th, came, over a hundred thousand people were ready to join in the run. It was a repetition of the Oklahoma rush, only intensified, and with new features that came from the previous experience. Hundreds of exciting tales were sent out by the correspondents to the press of the country, each description being varied by the writer's individual observations. Much that was said was true, much was overdrawn or only half disclosed, and though much severe criticism was indulged in, the confusion and excitement of the day involved the evil in a cloud of obscurity from which neither the inquisition of courts nor the inquiring mind of history can with certainty bring forth the facts. The evils of "soonerism" were as apparent here as in the Oklahoma opening, and there were charges that the townsites were occupied by sooners, acting in collusion with certain town companies, and that the soldiers favored this occupation. There can be no doubt that the promises of speculation in the townsites attracted the larger number of those participating in the run. It is not disclaimed that the real homesteaders were in the minority in this and other open-

ings. The thousands were here to get something which could be disposed of quickly at a profit to someone else. The old pioneer spirit, willing to sacrifice and endure long years of toil in making the land productive, was an actuating motive to only a comparatively small number of these boomers, and yet that small number remained to grow up with the country, while the thousands whom a speculative desire had brought here soon departed for other fields of enterprise or returned to their former homes.

September 16, 1893, was the date at which the history of several of Oklahoma's most thriving towns begin. Contrary to the haphazard method followed in the settlement of townsites in the Oklahoma country, the secretary of the interior had divided the strip into seven counties, and designated the places at which the county seats should be located. In advance of the opening, three trustees (no two of whom were from the same political party) were appointed for each of the county seat towns, and ample regulations were adopted for the proper entry of townsites. Naturally, the county seats were the centers of attraction for the majority of those seeking town lots, and as a result the cities of Perry, county seat of Noble county, Enid, county seat of Grant county, Alva, of Woods county, Woodward, of Woodward county, Pond Creek, of Garfield, and the county seats of "K" (Kay) and "Q" (Pawnee) counties, were settled on the same day, with populations varying from seven or eight thousand down to a thousand. Besides these towns, others were entered. One townsite was planned to be occupied entirely by negroes, while some socialistic and religious colonies were reported to be planning towns of their own.

It should be remembered that the Cherokee country was opened at a period of profound financial and industrial depression throughout the nation. As a consequence, many of those who took part in the rush were actuated by hopes of finding here a country of free gifts and bounteous plenty where their distress would be quickly relieved. In the line that day in September were persons who had been thrown out of regular employment by the panic in other states. Many were entirely ignorant of the conditions that confronted them, had no conception of the hardships of a new country, were inexperienced as farmers, and without means to support themselves through the pioneer period. It is not surprising, therefore, that after the boom and brief period of hope and exhilaration that followed the rush, many hundreds yielded to their disappointment and left the country. The results were well stated by Mr. Thomas Doyle, of Perry, some ten years later, in his testimony on the statehood question. He said:

"Under the provisions of the Cherokee Outlet law every quarter section was given to homesteaders, and today in Noble county that land has been settled on where a man with a family could not make a living; but men will struggle on. Today in Noble county, which is a fair sample, being an eastern county, most of our homesteaders have purchased claims, from one to six, . . . Those people are there to stay. Under the provisions of that homestead law, after a man gets a title he sells it. The rural population is less today than at any time since the country was opened in 1893."

In accepting the allotment system and its attendant conditions of individual citizenship, no tribe in Oklahoma territory proved more stubborn and unyielding than

the Kickapoos. It was the desire of the government that they should take homesteads and their surplus lands be opened at the same time with the lands of the adjacent Pottawatomies and other small tribes. But they could not be induced to relinquish their common lands until September 9, 1891, and the work of allotment proceeded slowly, one band of the tribe, refusing to submit to the new conditions and being induced by favorable promises, emigrating to Mexico where they found refuge from encroaching settlers.[6]

Finally, on March 3, 1893, Congress ratified the Kickapoo agreement, providing for the allotment of eighty acres to each member of the tribe. Two years passed before the work of the allotting agents was complete, and the surplus lands ready for settlement. The proclamation for opening was issued May 18, 1895:

"Now, therefore, I, Grover Cleveland, president of the United States, by virtue of the power in me vested by the statutes hereinbefore mentioned, and by other the laws of the United States, and by the said

[6] In the report of the commissioner of Indian affairs for 1906 is found the following account of this emigration:

Some years ago, Martin J. Bentley, who had formerly been United States Indian agent in charge of the Kickapoo Indians in Oklahoma, took charge of an exodus of a considerable number of these Indians from the United States into Mexico. The Indians who migrated were dissatisfied with the course of the Government in placing them upon their allotments and insisting that they should earn their living there; and their object in going to Mexico, as far as the facts have thus far been disclosed, was to seek a place where they could escape the conventional usages of our civilization and live more after their own fashions as Indians. Many efforts were made by the Government to induce them to return and live on their allotments in Oklahoma, but without effect. According to Mr. Bentley's statement the Indians preferred him to the Government of the United States as a custodian and Mexico to the United States as a dwelling place. The money which came to them from time to time for lands leased or sold at their own home they placed in his hands for safe-keeping, he tells me, without interest and with no date set for its repayment. His representation of the case is that he uses this money for the purchase of land or water rights and other beneficial purposes for the Indians under his care.

After exhausting its resources of persuasion to induce the return of the Indians the office set afoot an investigation with the purpose of discovering what money was actually received for their lands by those allottees who had obtained by special legislation, in disregard of the wishes of the Department, the right to sell their allotments in Oklahoma. This investigation resulted in a report containing so serious allegations against the good faith of most of the parties concerned in procuring the legislation and conducting the sales that the Department felt justified in refusing to act upon the legislation authorizing the sales until the whole matter had been laid before the Congress for its consideration, with a recommendation that the legislation unadvisedly enacted be rescinded. No action was taken by the Congress, however, on this recommendation, but I was informally directed to proceed with the execution of the law as it stood. The full report of the results of the investigation, which to this office looked so damaging to the parties involved, was sent to the Senate Committee on Indian Affairs for its information, but without producing any change of view there. Mr. Bentley and some other persons identified with his interests appeared before the committee and made an impression more favorable than the Indian Office had succeeded in making, and then the question arose why the office persisted in obstructing the free pursuit by the emigrant Kickapoos of their own preference as to residence and mode of life. At a session of the committee at which this matter came to a direct issue I answered that, as far as I personally was concerned, I thought that the Office had done all that duty demanded in the way of trying to keep these Indians in the general path of civilization, and that my only wish now was that if they were resolved beyond any possibility of a change of mind to stay in Mexico each Indian should be required to conform his conduct to such a purpose, take all that the United States owed him, cut loose forever from the control of and allegiance to our Government, and sign off forever all individual claim thereon. In other words, if they were to be United States Indians they should live in the United States, and if they were bound to live in Mexico they should become Mexican Indians and absolve their original sovereign from any further obligation toward them.

agreement, do hereby declare and make known that all of said lands hereinbefore described, acquired from the Kickapoo Indians by the agreement aforesaid, will, at and after the hour of twelve o'clock, noon (central standard time), Thursday, the twenty-third day of the month of May, A. D., eighteen hundred and ninety-five, and not before, be open to settlement under the terms of and subject to all the conditions, limitations, reservations, and restrictions contained in the said agreement, the statutes above specified, and the laws of the United States applicable thereto, saving and excepting such tracts as have been allotted, reserved or selected under the laws herein referred to, and such tracts as may be properly selected by the territory of Oklahoma under and in accordance with the provisions of the act of March second, eighteen hundred and ninety-five, hereinbefore quoted, prior to the time herein fixed for the opening of said lands to settlement."

Prior to 1896 the land lying between the north and south forks of the Red river adjoining Texas on the west was an organized county, settled by farmers and stockmen, having a county seat town, and on a parity in material development with the adjacent counties in North Texas. The people paid taxes for the support of the Texas state government, and it is related that on the very day when the decision of the federal supreme court announced that this county henceforth belonged to Oklahoma, a Texas judge was holding court at Mangum and trying cases under Texas laws. The grounds of the contention between the United States and Texas were a question of boundaries, and reference has been made to the subject in Chapter III, in discussing the boundaries of Oklahoma. The inclusion of this territory was not in the nature of an opening, and did not precipitate a rush of settlers to take up the unoccupied lands. The citizens of Greer county merely changed from one allegiance to another, and instead of living under a state government and voting in national elections, were content to endure the condition of territorial existence until Oklahoma statehood again restored their former privileges of citizenship.[7]

What is known as the Greer county case was a suit in equity by the United States against the state of Texas to determine the boundary between the territory of the United States and Texas and to have it judicially determined whether the tract of land known as Greer county was within the territory of the United States or within the state of Texas.

The case was argued before the United States supreme court at the October term of 1895, and the decision, giving Greer county to Oklahoma, was announced March 16, 1896. The syllabus of the opinion is here quoted:

1. In fixing the boundary between the territory of the United States and Texas, the treaty of 1819 between the United States and Spain controls; and the entire instrument must be examined to ascertain the real intention of the contracting parties, and the Melish map referred to therein is to be given the same effect as if it had been expressly made a part of the treaty.

2. The Melish map of 1818, referred to in the treaty of 1819 between the United States and Spain as showing the 100th meridian, with other lines named in describing the boundary fixed by the treaty, was taken as a general basis for fixing the boundary, but was not intended to control the location of that meridian as against its true position astronomically located and differing from that

[7] The annexation of Greer county to Oklahoma was a disturbing factor in the "free homes" movement then being agitated before Congress. This phase of the Greer county matter will be found discussed in the sketch of Dennis Flynn, elsewhere in this work.

on the map, but the treaty itself provided for fixing the boundary line with more precision by surveying and marking it.

3. The convention or contract between the United States and Texas, as embraced in their respective enactments of 1850, together with the subsequent acts of the two governments, adopts the true or actual 100th meridian, and not its false position on the Melish map, as the true boundary of Texas.

4. The Red river, or Rio Roxo, which by the treaty of 1819 between the United States and Spain was to be followed westward to the 100th meridian of longitude, must be taken to be the south, or Prairie Dog Town fork, which most nearly answers to the description of the Red river as shown on the early maps, including that of Melish referred to in the treaty, instead of the north fork, the course of which would make the line run north and northwestwardly.

5. The inclusion of Greer county, Texas, among the counties named in the act of Congress of 1879 as constituting the northern judicial district in Texas, merely placed the territory claimed to constitute that county, but which the United States had claimed as part of the Indian Territory, in that district for judicial purposes such as were competent to the United States courts, and was not intended to express the purpose of the United States to surrender its jurisdiction, and does not admit the right of Texas to that territory.

6. The designation for a short time of a postoffice as in Greer county, Texas, on petition of persons describing themselves as residents of such county, before the authorities of the postoffice department discovered that it was located in the territory which was in dispute between the United States and Texas,—does not strengthen the claim of Texas to such territory.

7. The location of the line established by the treaty is to be determined by the course of rivers, and degrees of latitude and longitude, rather than by routes, trails or roads, the extent and character of which cannot be certainly known at this day, and over which, at the date of the treaty and prior thereto, travel by traders and trappers could have been only occasional and limited.

8. The territory east of the 100th meridian of longitude, west and south of the north fork of Red river, and north of a line following westward, as prescribed by the treaty of 1819, between the United States and Spain, along the south bank both of Red river and of the Prairie Dog Town fork or south fork of Red river until such line meets the 100th meridian of longitude, which territory is sometimes called Greer county,—constitutes no part of Texas, but is subject to the exclusive jurisdiction of the United States.'

In August, 1901, the immense domain of the Wichita, Kiowa, Comanche and Apache Indians, comprising the greater part of what is now known as Southwestern Oklahoma, was given to the occupation and industry of white men. Here, again, were repeated many of the scenes that marked the settlement of Oklahoma in 1889, though there was no "rush." The homesteads were rapidly taken, and at the county seats of the three principal counties formed from the reservations, three cities came into existence almost in a day, Lawton at once taking rank as the metropolis of the new

' Following the decision of the supreme court in the Greer county case, President Cleveland issued a proclamation (date March 16, 1896) declaring:

"WHEREAS, The Choctaw Nation claims that the title to these lands passed to said nation by virtue of treaties with the United States, and that the title of said nation to said lands has not been extinguished, but that said Choctaw Nation has a right and interest therein; and

"WHEREAS, It is claimed that divers persons settled upon said lands prior to the thirtieth day of December, eighteen hundred and eighty-seven, acting in good faith, upon the belief that the same belonged and were subject to the jurisdiction of the State of Texas, and that Congress will be asked to extend to all such settlers suitable relief;

"Now, therefore, I, Grover Cleveland, president of the United States, by virtue of the authority in me vested, not admitting in any wise the validity of such claim on behalf of the Choctaw Nation, but for the purpose of preserving the status of said lands intact until such time as said claim of the Choctaw Nation thereto may be duly determined, and that the settlers hereinbefore referred to shall not be disturbed until Congress shall have fully considered their claims for relief, do hereby withdraw said lands from disposition under the public land laws of the United States, and declare the same to be in a state of reservation, until such time as this order of withdrawal may be revoked; and I do further warn and admonish all persons against entering upon said lands with a view of occupying the same, or settling thereon under the public land laws, during the existence of this order."

country, with Hobart and Anadarko not far behind.

The Wichita and affiliated bands had agreed to cession and allotment of their lands at Anadarko June 4, 1891, the treaty being confirmed by act of Congress, March 2, 1895. The limits of their reserve were "Commencing at a point in the middle of the main channel of the Washita river where the ninety-eighth meridian of west longitude crosses the same, thence up the middle of the main channel of said river to the line of 98° 40′ West longitude, thence on said line of 98° 40′ due north to the middle of the channel of the main Canadian river, thence down the middle of the said main Canadian river to where it crosses the ninety-eighth meridian, thence due south to the place of beginning."

The agreement for cession and allotment of the Kiowa, Comanche and Apache reserve was effected at Ft. Sill, October 21, 1892, and was ratified by Congress June 6, 1900. (Boundaries given elsewhere.) Out of the reserve individual allotments and school lands, etc., and 480,000 acres of grazing lands were set apart for common use of the three tribes.

Other important conditions precedent to the opening are recited in the proclamation for opening, dated July 4, 1901:

"And, whereas, in pursuance of the act of Congress approved March 3, 1901, (31 Stat., 1093), the secretary of the interior has regularly subdivided the lands so as aforesaid respectively ceded to the United States by the Wichita and affiliated bands of Indians and the Comanche, Kiowa, and Apache tribes of Indians into counties, attaching portions thereof to adjoining counties in the territory of Oklahoma, has regularly designated the place for the county seat of each new county, has regularly set aside and reserved at such county seat land for a townsite to be disposed of in the manner provided by the act of Congress last named, and has regularly caused to be surveyed, subdivided, and platted the lands so set aside and reserved for disposition as such townsites:

"And, whereas, by the act of Congress last named, it is provided: 'The lands to be opened to settlement and entry under the acts of Congress ratifying said agreements respectively shall be so opened by proclamation of the president, and to avoid the contests and conflicting claims which have heretofore resulted from opening similar public lands to settlement and entry, the president's proclamation shall prescribe the manner in which these lands may be settled upon, occupied and entered by persons entitled thereto under the acts ratifying said agreements, respectively; and no person shall be permitted to settle upon, occupy or enter any of said lands except as prescribed in such proclamation until after the expiration of sixty days from the time when the same are opened to settlement and entry. . . . .

"Now, therefore, I, William McKinley, president of the United States of America, by virtue of the power vested in me by law, do hereby declare and make known that all of the lands so as aforesaid ceded by the Wichita and affiliated lands of Indians, and the Comanche, Kiowa, and Apache tribes of Indians, respectively, saving and excepting sections sixteen, thirty-six, thirteen and thirty-three in each township, and all lands located or selected by the territory of Oklahoma as indemnity school or educational lands, and saving and excepting all lands allotted in severalty to individual Indians, and saving and excepting all lands allotted and confirmed to religious so-

cieties and other organizations, and saving and excepting the lands selected and set aside as grazing lands for the use in common for said Comanche, Kiowa, and Apache tribes of Indians, and saving and excepting the lands set aside and reserved at each of said county seats for disposition as townsites, and saving and excepting the lands now used, occupied, or set apart for military, agency, school, school farm, religious, Indian cemetery, wood reserve, forest reserve, or other public uses, will, on the 6th day of August, 1901, at 9 o'clock a. m., in the manner herein prescribed, and not otherwise, be opened to entry and settlement and to disposition under the general provisions of the homestead and townsite laws of the United States."

The lands of the reservations opened in August, 1901, were divided into three new counties and, in part, attached to existing counties. This was done by order of Secretary Hitchcock, June 24, 1901. The counties thus created were Caddo, Comanche and Kiowa, with the limits which they had during the rest of Oklahoma's territorial history. A part of the new territory was attached to Roger Mills, Washita and Canadian counties, the boundaries of which were thereby changed and increased.

Endeavoring to profit by its experience in former openings, the government devised a new plan for opening the Kiowa-Comanche country to settlement. The plan as outlined in the president's proclamation of July 6 required:

1st. That all properly qualified applicants for homesteads should register, at either the land office at Lawton or at El Reno, during the period from July 10 to 26, 1901. Having registered and obtained a non-transferable certificate to that effect, the applicant was at liberty to examine the lands of the reservation with a view to selection at time of entry, but was not permitted to make any settlement.

2d. A card of identification for each applicant was made out at the time of registration and placed in a plain envelope. At the close of the registration, the committee in charge of the drawings proceeded "to draw out and open the separate envelopes and give to each enclosed card a number in the order in which the envelope" was drawn.

3d. Notice of the drawings, giving name and number of applicants, was posted each day. At each land office commencing Tuesday, August 6, 1901, the applications numbered 1 to 125, inclusive, were to be presented and considered, and that number were to be considered each day until lists were exhausted or the lands disposed of.

Concerning the lottery method used in this opening, Governor Jenkins said: "The inauguration of methods of procedure so entirely new and novel to all former openings of land to settlement of course met with more or less disfavor and criticism, but upon the whole the system of registration and drawing proved generally satisfactory, and all agree that there was perfect fairness with no favor or advantage to any in the whole procedure, while most of the hardships of other openings and the subsequent contests and bloodshed seem to have been done away with.

"The plan of opening has so far proved to be a very great success, and the officers charged with the work deserve great credit for their able management of the work in hand. During the ten days allowed for registration 165,000 people registered for claims in the reservations, 87,000 for the Lawton district and 78,000 for the El Reno district, of whom 13,000 drew numbers en-

titling them to claims and the others returned quietly to their homes or sought locations in the new county seats and other townsites or elsewhere in the territory.

"When the day for the sale of lots in the county seats arrived, great crowds congregated at Lawton, Anadarko and Hobart. Although Lawton was a considerable distance from any railway connection at the time, much the largest crowd was there, and the demand for lots was greater than in either of the other towns. The sale of lots progressed quietly and orderly, the prices ranging much higher all through the sale than had been anticipated. The total amount received for sale of lots was as follows:

"Lawton $414,845
"Hobart 188,595
"Anadarko ..... 132,593"

The secretary of interior was instructed by law to use the proceeds of townsite sales in the county seats for the building of a court house at a not greater cost than ten thousand dollars and in the construction of other public improvements such as roads and bridges. The proceeds were so large, as it turned out, that the secretary found it difficult to apply the funds equitably under the limitations of the law.

On December 6, 1906, occurred the last great opening of Oklahoma lands to settlement. The lands at this opening, however, did not go to the man first on the ground or to the one who was lucky in drawing a certain number, but to the one who had the most money to offer. The lands embraced in this opening were what is known as the "Big Pasture," with an area of about 450,000 acres, in the southern portion of the old Comanche county, two Indian pastures in Comanche county and one in Kiowa county, the three having an area of over 80,000 acres and the old Fort Sill wood reserve, containing about 25,000 acres. No bids were entertained under $5 an acre, and at the close of the bidding but 126 quarter sections remained unsold. The average price per quarter section ranged from $1,200 to $1,800, the highest amount bid for a single quarter section being $7,000. The total amount received from the sale of these lands approximated $5,000,000, which was added to the funds set aside for the benefit of the Indian tribes who formerly owned the lands.

The government laid off five town sites in the Big Pasture and one in the pasture in Kiowa county, these towns being named "Randlett," "Escheti," "Quanah," "Isadore," "Ahpehatone" and "Koonkazachey."* The majority of the lots in each of these

* The following newspaper story, told two years after the opening, illustrates some of the difficulties in the way of laying out a townsite in advance, despite the government's supervision in the matter:

In one of the most interesting townsite fights in the development of the southwest—one in which the federal government was matched against a newly organized railway company, the Wichita Falls & Northwestern—the railway company has in effect emerged victorious and the one-time government town, Escheti, one of the six opened to settlement by town lot sales, is now a deserted village—more so, in fact, than Goldsmith's municipality, since not even ruins mark its former existence. By the effecting of a "compromise" the railway people removed a part of their town, Kell, got Escheti abandoned entirely and established Granfield, probably the most rapidly built town in the world, since from a bald prairie one day it became a village of 500 inhabitants the next with substantial buildings, both residence and business.

When the first opening of towns in the Big Pasture began, hundreds of people who had planned to purchase lots in Escheti camped in the section line awaiting the beginning of the sale. Before the government sale began, however, many of them began plans to stay, some of them even erecting temporary wooden buildings, and when

townsites were sold to the highest bidders for the benefit of the Indian tribes. One business lot in Randlett sold for $1,120; the highest lot in Escheti sold for $660, and large numbers of business lots sold from $200 to $250 in each of the townsites. The residence lots in Randlett and Escheti sold at an average of from $35 to $40; in other townsites at about $20. The persons purchasing the farms in these pastures were required under the law to pay one-fifth cash, to take up their residence on the land within six months, and to remain there five years, paying the balance of the amount bid in five annual installments.

The governor's report of September, 1907, from which the above is taken, said, with reference to the development that had

the sale began they refused to move. These were the people who afterward became residents of the town of Kell.

The lots in Escheti were sold and the town was started. Then objection was raised to the rival town, which was a town in reality, but without name, and the government officials served notice upon the people camped in the section line that they must vacate their holdings.

Then the railroad, the Wichita Falls & Northwestern, which was building from Wichita Falls, Texas, to Frederick, Oklahoma, stepped in and offered the squatters a home on their right of way, which had been condemned much wider than ordinary for the declared purpose of erecting sidetracks and watering tank. The offer was accepted. Five hundred people moved in, stores were opened, a newspaper started and banks, cotton gin and railway depot were shortly in operation. The town of Kell was started, named after the promoter of the railroad. It was erected on the homestead of John Fields, chief engineer for the railroad company.

Two miles away was the government town of Escheti. It had stores, banks and various kinds of business. It had some people, people who had paid their money for town lots. But it had no railway station. It had no cotton gins. And the farmers were doing their business at Kell.

Consequently a wail arose from Escheti for protection of the property sold them in good faith. The people of Kell were ordered out, but they didn't get out. Attempt was made to secure injunction against people and railroad, but not even the federal district court would grant the injunction. Failing in this attempt, when statehood came and the corporation commission put up its shingle, Escheti asked that the railroad company be compelled to erect a depot for them, alleging that the action of the road was unjust discrimination. This order was issued, but later a rehearing was granted the railroad and the order withheld.

In the meantime, however, conditions were changing so that both towns were anxious to give up the fight which was ruining both. John Fields, the owner of the site of Kell, had died and the litigation which seemed necessary for final title to the land urged removal. Escheti, disappointed in her fights through the courts and corporation commission, and losing in business to her railway neighbor, became "sore" on the government because of the neglect of its protege.

Here the railroad company stepped in in the role of peacemaker and, promising to the people of Escheti value for value for their government town lots, induced the two towns to agree to a compromise by the abandonment of both old sites and the formation of a new town, now called Granfield, in honor of the second assistant postmaster general.

Government officials, however, took an unfavorable view of the project, recalled all deeds for property still held in escrow awaiting remaining payments and secured an injunction from the federal government preventing them from removing to the new town.

These injunctions had to be served, however, before they were effective, and citizens of Escheti determined to "beat them to it" by getting moved before the federal deputy arrived. Twenty house-moving equipments, both steam and horse power, were called into service, and working night and day and over Sunday left nothing but bald prairie to greet the arrival of the officer who had come to serve the writs. The entire town had been removed and deposited in the streets of Granfield.

The troubles of the new town, though formed through compromise, have not ended, however. The people wanted a postoffice. They applied to the department for the removal from Escheti, but decision was delayed. They became impatient. They had taken the name of a postal official. They determined to take the postoffice itself. During the night a band of masked men visited the one-time site of Escheti, placed wheels under the little building in which the office was located and dragged it by force to the new town. The department was notified, an investigation started and the office ordered back to Escheti to await further instructions. The office was taken back. Granfield is awaiting instructions, but as yet they have not come.

taken place since the opening: "In the seven months which have transpired since the opening of these lands a wonderful change has taken place. The settlers have taken up their residence on the farms and in the towns, and where seven months ago there was nothing but the waving grasses of the prairie and a few scattered herds of cattle, there are now comfortable homes, farms planted to crops, and growing towns. Many fine homes, costing from $1,500 to $2,000, are already to be found on the farms, and it is estimated that cotton crop of the Big Pasture for the present year will reach 25,000 bales."

In closing this chapter on the expansion of the area of settlement over all of Oklahoma territory, there remains one important result of it all to be noted. It was foreseen as a prophecy when the original Oklahoma was opened to settlement, and the words used then will serve to indicate whither all the events just described are tending.

Commenting editorially on the outcome of the Oklahoma rush, the Chicago *Tribune* said (April 24, 1889): "The real settlers who will develop and civilize Oklahoma are not yet there. The great wave of the rush will recede again, carrying back a large proportion of those whom it swept in. Probably not twenty-five per cent of those who went in Monday will remain and become permanent homesteaders.

"The real significance of this remarkable invasion of Oklahoma lies not so much in the eagerness of the boomers to get new and free land as it does in its being the first step towards the complete opening of the Indian Territory to white civilization, and towards the formation of a new state, which will be knocking at the door of the Union before we are aware of it. . . . It is only the beginning of a movement which will ultimately and before long absorb the whole of Indian Territory in the new State of Oklahoma. It is the opening of a door which will not be closed again until white industry and commerce have spread all over that region. . . . The Indians living east of Oklahoma . . . have already held one convention in which there was developed a sentiment favorable to taking up land in severalty and selling off what lands they do not want. Thus there is a movement all along the line which will more speedily than is generally imagined change the Indian Territory into a white-red state, with the possibility that for the first time a red man may find himself in Congress."

PART V

DISSOLUTION OF TRIBAL GOVERNMENTS

CHAPTER XXIV

LANDS IN SEVERALTY

The division of Indian lands in severalty was tried in the case of some northern Indians before the war, and was proposed for the tribes of the Indian country by the commissioner of Indian affairs in his report of 1859. He says: "The flattering accounts in relation to the adoption by several of the northern tribes of Indians of the plan of allotments to them in severalty of a portion of their tribal country has induced this office to suggest to the superintendent of the southern superintendency that the fact be communicated to the Indians within his district with a view to a consummation of a similar policy among them. Such a system could very well be administered and carried out by the Indians themselves, with a little assistance from the government. It would be necessary that their lands should be regularly surveyed. . . . This being done, it would be advisable for them to select reservations for themselves, which would at once give to all classes an idea of separate property in lands, and, in my judgment, stimulate them to greater exertions to become practical agriculturists, and they would progress more rapidly in all the arts of civilization. Thus, too, a prosperous and thriving community would be formed, which would soon be in a condition to come in closer contact with the white race."

The apportionment of the Indian lands in severalty and the opening of a part of Indian Territory to white settlement were measures advocated early in the Civil war by W. G. Coffin, superintendent of the southern Indians. In a report[1] dated September 1, 1862, he says, referring to the probability of new treaties being made with the tribes in rebellion, "Let the treaties provide that the Indians shall take their land in severalty, and wholly abandon the policy of holding them in common. . . . Let the treaties also provide for the survey of all the Indian reservations valuable for agricultural purposes, and after the Indians make their selections, open up the balance to sale and settlement by whites. . . . I am aware that it has been, and perhaps now is, in contemplation to concentrate the Indians in the states further north in the Indian Territory; but in my opinion that would be bad policy. . . ."

With a knowledge of the developments that have been witnessed in the preceding chapters, it seems remarkable how exactly the recommendations of these officials of the Indian department were fulfilled. It is evident that the allotment idea was not new at the time it was given practical effect by Congress in 1887, and that in the solution of the Indian question it had long been considered by those taxed with the burden of this problem.

In endeavoring to break down the Indian system of commercial or tribal possession of lands, the government struck at the very

[1] Ex. Doc., 3d Sess., 37th Cong., Vol. II., pp. 311-312.

foundation of Indian economic practice. The idea of individual ownership of land was unknown to the American Indian in his native state. The members of the tribe might, as individuals, possess articles of dress, weapons and trinkets, which were often, according to their superstition, carried along after death to the happy hunting ground, but the land around their village was a "common" and the crops that were raised and the herds that pastured there belonged to all within the village or tribe. An Indian's reasoning as to the benefits of commercial land holding has thus been reported: "If I die, my wife cannot lose her home; my children cannot lose their homes. It cannot be taken from my children for debt; it cannot be sold from over their heads. They have a home just as long as any other Indian has a home." That was the logic of the system to which they clung as tenaciously as Americans cling to individual ownership.

As long as the Indian was content with the low standards of economic progress that characterized his history during the greater portion of American history, this communism answered all the demands of Indian social existence. But, as a result of contact with the white people, when personal ambition and rivalry for wealth began to actuate some members of the tribe, the system quickly exposed its fundamental faults. Under the influence of the example of civilized people, the nations of the Indian Territory had, while still adhering to the inherited system, modified it to the extent of allowing individuals to cultivate and use for grazing as much land as they could fence off from the common estate. Though the ownership still remained with the tribe or nation, each individual was privileged to *use* as much land as his enterprise and ambition could compass. Such was the common practice among the five civilized tribes as long as tribal ownership prevailed, and from this arose the disproportionate division of the lands which proved the strongest argument against the system on which it was based, and finally brought about its abolition. The inequity of common ownership was noted in the report of the commissioner of Indian affairs in 1887 (the year in which the first allotment law was passed). "The more enterprising among these Indians," referring to one of the five tribes, "have in actual cultivation and under fence many times more land than their per capita share." In the same year, the platform of principles adopted by one party in a Creek election, stated the dangers that threatened the nation's economic welfare. "We have noticed with much concern the inclosing of large tracts of the public domain and the common pasturage by a few citizens to the exclusion of others. We condemn this practice as a species of monopoly that is in direct conflict with our system of land tenure. Every citizen, whether rich or poor, has an equal, and only an equal, interest with every other citizen in our landed estate, and is therefore actually entitled to only a pro rata share of this our common heritage." With such a clear perception, on the part of many of the Indians, of the evils of their land-holding system, coupled with their earnest conviction that each member of the tribe was entitled to his equal share, it is evident that the doctrine of allotment in severalty would appeal with special force to the citizens of the five tribes even at that time.

The basis for a division of the lands of the five tribes among individual owners had been laid in the treaties of 1866 (as had been recommended by Superintendent Cof-

fin in the preceding quotation). The original Cherokee constitution provided that the national lands should remain common property, the improvements alone being the property of individual citizens, who, however, were not permitted to dispose of them to the United States or citizens of the same. But by an amendment adopted November 26, 1866, "the lands . . . shall remain common property until the national council shall request the survey and allotment of the same." This amendment was adopted in accordance with article 20 of the treaty of July 19, 1866. The provisions in the Choctaw-Chickasaw treaty of April 28, 1866, relating to allotment are quoted below.[2]

The allotment in severalty of the lands among the Indians outside of the five civilized tribes was finally made the subject of the general law of 1887, the provisions of which and its results in expanding the settled area of Oklahoma territory have been described in the previous chapter. When the Oklahoma Indians took individual homesteads, they immediately, under the provisions of the act, became citizens of the territory and the United States. The tribes, being numerically small in proportion to the surrounding population, were absorbed in the general citizenship, and the jurisdiction of Oklahoma courts and civil administration was extended over whites and Indians alike.

But the problems of bringing the members of the five tribes into effective and harmonious relations with the system of American government presented many more difficulties and complications. At the time the allotment of lands was proposed in the treaties of 1866, it was the ostensible purpose that, after such division had been effected, the Indians should still constitute an "Indian state," patterned after other state governments, but with the legislative and administrative powers controlled and directed by the Indians themselves. This was the ideal plan, long cherished by those who foresaw the complete civilization of the Indian. Had it been possible to realize these ideals, we might have witnessed the establishment of such an Indian state, with an Indian majority directing the affairs of government, with Indian judges in the courts, with counties and towns officered by Indians, and with this race occupying the dominant position in agriculture and industry; at the same time, the whites

[2] Art. 11. WHEREAS, The land occupied by the Choctaw and Chickasaw nations, and described in the treaty between the United States and said nations, of June twenty-second, eighteen hundred and fifty-five, is now held by the members of said nations in common, under the provisions of the said treaty; and, whereas, it is believed that the holding of said land in severalty will promote the general civilization of said nations, and tend to advance their permanent welfare and the best interests of their individual members, it is hereby agreed that, should the Choctaw and the Chickasaw people, through their respective legislative councils, agree to the survey and dividing their land on the system of the United States, the land aforesaid east of the ninety-eighth degree of west longitude shall be, in view of the arrangements hereinafter mentioned, surveyed and laid off in ranges, townships, sections, and parts of sections; and that for the purpose of facilitating such surveys and for the settlement and distribution of said land as hereinafter provided, there shall be established at Boggy Depot, in the Choctaw territory, a land office and that, in making the said surveys and conducting the business of the said office, including the appointment of all necessary agents, and surveyors, the same system shall be pursued which has heretofore governed in respect to the public lands of the United States, it being understood that the said surveys shall be made at the cost of the United States and by their agents and surveyors, as in the case of their own public lands, and that the officers and employes shall receive the same compensation as is paid to officers and employes in the land offices of the United States in Kansas.

would have enjoyed equal opportunities, would have lived peaceably by the side of their Indian neighbors, content to live thus, even though in the minority numerically and in political and economic influence.

The impossibility of reaching such a happy result has been explained. Before the tribes could attain the advancement where lands were distributed per capita and as individuals placed upon a plane of equal citizenship and free competition and intercourse among themselves and with the surrounding population, new and disturbing factors had been introduced to delay and render extremely difficult the solution of the questions involved. Before a practical step was taken in making American citizens of the Indians, many thousands of white "intruders" had come among the five tribes and had secured material advantages and permanent residence which both the tribal and federal governments found it impossible to take away. Owing only a limited allegiance to the federal government, for the most part unable and not desiring to incorporate themselves as tribal citizens, the intruders in time formed a large proportion of the total population, without the legal rights of citizens, without courts, without social institutions, yet, in other respects, active, producing factors in the country of their residence. Seeing this increasing class of intruders, and witnessing the results of their superior enterprise and intelligence, the Indians naturally regarded them with jealousy and saw safety only in retaining their old national system of isolation. For it was clear, if the gates of seclusion were opened and individualism substituted for the common tribal bond, that the intruders would quickly gain control and the Indians be reduced to the position of a minority, if not of distinct inferiority.

Thus there were two influences, partly coöperating and partly antagonistic, in working out the Indian problem in the Indian Territory. The government was steadily pursuing its plans for allotment in severalty and the raising of the Indian to the dignity of citizenship. At the same time the intruder class were clamoring for a comprehensive citizenship that would embrace themselves and afford legal guarantee to the property and residence values which they had established; while they wanted the principal benefits the government was seeking to provide, their interests were in many respects opposed to those of the Indians, and the government was confronted with the problem not only of adjusting the affairs of the Indians themselves, but of settling the relations of the original owners with the intruding residents.

The political status of the tribes was a subject of discussion in the report of the commissioner of Indian affairs in 1885. He says: "What political development lies before the Indians of the Indian Territory it is impossible to foresee; but one thing is evident, the idea of maintaining permanently an *imperium in imperio*, such as now exists, must, in some respects, be abandoned. The idea of Indian nationality is fast melting away, and the more intelligent Indians are themselves awaking to this fact. In a word, the Indians in the Indian Territory must sooner or later break up their tribal relations, take their lands in severalty, and to all intents and purposes become citizens of the United States."

One of the first effects of white intrusion upon the political situation was in the extension of federal protection to white residents through the courts. At first the jurisdiction of outside courts, in the territory of Arkansas, was stretched over the Indian

Territory. This was done in 1877 when the Indian Territory was attached to the western district of Arkansas, the district court taking cognizance not only of civil and criminal cases among the white intruders, but also of cases arising from inter-tribal relations. With the increase of population, the Arkansas courts proved inadequate in affording the prompt judicial relief necessary in a social community. Occasionally a criminal was taken several hundred miles to Fort Smith, at great expense to the government, but civil suits, unless involving large sums, could not be maintained in that distant court. The only courts held in Indian Territory prior to 1889 were Indian tribal courts, before which the pleas of white residents were not heard. The United States court established in Indian Territory, at Muskogee, by the act of March 1, 1889, had a limited jurisdiction, like a justice court, and it afforded little relief to the settlers during the opening of Oklahoma.

The Oklahoma organic act of May 2, 1890, devoted several paragraphs to the matter of the establishment of a new system of federal courts for the Indian Territory. The Territory being divided into three divisions, courts were to be held at Muskogee, South McAlester and Ardmore. But the jurisdiction of these courts was limited as before, the commissioner that was provided for each division being little more than a justice of the peace. As a result the two hundred thousand white people in Indian Territory, not being subject to the law of the Indian nations, had to seek the benefits and protection of the law partly in the federal courts at Fort Smith, Arkansas, and Paris, Texas, and partly in the minor federal courts of Indian Territory. Naturally a conflict of jurisdictions arose, and the seeking of justice at Fort Smith or Paris involved expense and inconvenience that were heavier penalties than the original injustice. The local courts, administering justice for an area as large as Indiana, were constantly overburdened.

The system resulted in a practical denial of justice, except in matters of paramount importance, and then only after much delay. It was claimed that the expense of prosecuting crimes and maintaining courts in Indian Territory amounted to about one-seventh of the total judicial expense of the United States, and this disproportionate expense was not due to the prevalence of crime but to the system. The fees obtained by marshals in taking criminals to court proved temptations to an abuse of their power in making arrests. In some of the first appeals from the people of Oklahoma and Indian Territory to the general government for relief from the burdens and ills arising from lack of self-government, the condition of the courts furnished one of the strongest arguments for the petitioners. "We have," to quote from the memorial of the Purcell statehood convention of September, 1893, "five ambiguous and conflicting court jurisdictions. The Indians have their local tribunals, with their barbarous whippings and executions by shooting. The Indian agent is empowered to enforce certain of the federal statutes with police at his back. Two foreign courts, with power of life and death over our people, sit at Fort Smith, Arkansas, and Paris, Texas. Our home federal court is little more than a big justice court, that smacks strongly of the police court. We have so much law that we can't tell where one court's jurisdiction leaves off and another's begins." Thus the cry for judicial home rule was taken up, and through all the subsequent agitation for

statehood was echoed and re-echoed and reinforced by a mass of evidence that was constantly growing to show the inadequacy of the system.

The status of the Cherokee people, to take a particular case, and their relations with the general government underwent gradual change from the treaties of 1866 until the nation was absorbed into the state. The intruder class became more numerous every year, and a source of greater trouble to the nation, owing to the fact that the Cherokee lands bordered on Kansas and Arkansas. Under the treaties the right to decide citizenship or residence claims belonged to the tribes concerned, but the intruders at last became so numerous and strong that they formed an organization among themselves to pass upon their own claims, and others that might be submitted to them, with attorneys and ample funds to defend each claim in outside courts against the decision of the tribes. By this time the government was committed to the policy of breaking up the Indian reservations and allotting the lands in severalty. In line with this policy, the jurisdiction of the United States courts was gradually being extended over the Indian country, absorbing many of the former powers of the Indian tribal courts. By persistent negotiation and pressure, the Cherokee Commission had secured the cession and opening of the Outlet, against the bitter opposition of a large part of the tribe, and from that time the dissolution of Cherokee nationality proceeded slowly but surely step by step. With the other nations similar influences were working to the ultimate end.

The situation of the non-citizen class in towns and cities in the Indian Territory under tribal government was illustrated in a few sentences in the memorial by the Purcell statehood convention of 1893: "The white non-citizens, the wealth-producing class of the Five Nations, have erected improvements to the value of many million dollars upon the land and put in cultivation nearly every acre utilized for farming. Under the tribal laws they can negotiate no leases for longer time than one year, and are subject to eviction by the Indian landlord at the expiration of that time. A score of towns containing from 1,000 to 5,000 residents, and many of less population, have personal property aggregating fully $5,000,000, with not a shadow of title to the soil beneath their buildings, many of which are substantial and expensive structures, one alone built by non-citizen capital costing $70,000. The personal property of the town of Ardmore approximates $1,000,000. These towns have no municipal governments and are wholly dependent upon private liberality and enterprise for the maintenance of what few sanitary and other imperative public regulations they enjoy. Their growth and public order, health and comfort require that they have municipal organizations."

In another place the memorial offers a severe criticism on the tribal governments: "The politicians who control the five nations and are anxious to perpetuate the same to their pecuniary profit and for the wreaking of factional vengeance, are incapable of appreciating the principles of free government or administering it. The recent Locke insurrection in the Choctaw Nation, which resulted in many political assassinations and required federal intervention to prevent the execution of partisan prisoners, is an instance in point. These governments are mere oligarchies for self-aggrandizement and public spoliation."

From these quotations, it is clear that the

majority of the so-called intruder class were in a position of antagonism to the five national governments to which in many respects they were subject, but in whose direction they had no voice. Here were two peoples living side by side, the weaker possessing the lands and the government, and the stronger and more enterprising chafing under their restrictions and clamoring for the representation in government and the independence of occupation and ownership to which they could put forth no claims of moral right and law. Knowing the temper of an aggressive body of American settlers, the outcome could not long remain in doubt. When the first railroad was built through the Territory and white men's towns and cities sprang up along the right of way, the doom of Indian seclusion was pronounced, and it now remains to describe the manner in which the adjustment of the relations between members of the tribes and non-citizens was effected.[2]

[2] A general discussion of the status of the Indians and whites and the problems then pressing for solution was written by B. W. McAdams, in the *Oklahoma Magazine* in 1894, and is quoted as an example of some of the highly colored opinions then current regarding this question:

"Many of the country's most profound students of the Indian question—men and women who have made the race and its relation to the nation a life study—have become converts to the policy of individualism and severalty. The citizenship question aside, the folly and injustice of reserving many million acres of arable land as a wilderness used only as a camping ground for a few thousand lazy, squalid governmental paupers, is palpable. If the Indian must be fed and herded like a dumb brute, it should be done within smaller enclosures and not so senselessly at the expense of the American homesteader. He will fare as well on federal rations upon an allotment of 160 acres as upon an allotment of many hundred acres per capita, and give less trouble to his herders, the United States agents and military. . . .

"The Indian menagerie called a reservation has undone whatever good the missionary and the mission school may have accomplished. The agency system as political patronage is responsible for a large share of the failure. The Indian has been the victim of a bureaucracy which has held him a spoil of politics. When we consider how long he has run the gauntlet of rascally agents and thieving contractors, it is a wonder he has come out with a blanket on his back and beef entrails in his stomach. It is a wonder there have not been more Wounded Knees. The paternalistic policy of the government has put a premium upon idleness and fostered abject dependence. Industrialism and citizenship go hand in hand in Indian civilization. . . .

"That the United States should have been so shortsighted in formulating and carrying out its Indian policy is astonishing. It seems to have been its purpose, through binding treaties and the creation of a special bureau, to eternally perpetuate the reservation system of isolation and pensionary dependence. It seemingly never contemplated the elevation of the Indian to citizenship and the razing of the Chinese wall which has been studiously built to keep him apart from the rest of humankind. Worse than this, it has clothed certain of the tribes with elements of sovereignty little short of foreign independence, virtually establishing alien powers within our borders. The Cherokees, Creeks, Seminoles, Choctaws and Chickasaws, composing the five civilized tribes, furnish an instance in point. These Indians were removed to the Indian Territory more than fifty years ago and given extraordinary promises and privileges. Their lands, a rich domain as large as any of the states, were patented to them to be held in common by the members of the respective tribes 'as long as grass grows and water runs,' and they were guaranteed as perpetual sovereignty. . . .

"When the skirmish line of the westward marching army of civilization reached the dead line of this Indian principality it halted and parleyed. The parley evolved a truce. The truce resulted in an invitation to the white man to come across the line and become an Indian. This singular metamorphosis was legally effected by the party of the first part being adopted by or marrying the party of the second part. Thus the 'squawman' began to work out the solution of a great problem, for none will gainsay the potency of amalgamation as a civilizer. All else failing, that will win. The Indian, singularly enough, almost invariably intermarries with the white race when the opportunity presents itself, and his land advantages serve to put a coveted premium upon the marital union which never goes a begging. The 'squawman,' be it said to his credit, could not be an Indian in

mode of life. Once in the tribe his native enterprise and thrift asserted themselves. The rich pastures and fertile valleys of his adopted country appealed to his cupidity. He became a farmer and a herdsman. As his crops and his herd increased, he perceived the need of alien labor, for the Indian will only work by compulsion or from direct necessity. This need was supplied from the main body of the army which he had preceded and which, having arrived on the outside, clamored for admittance. The Indian councils, kindly disposed toward their adopted brother, and easily persuaded, enacted laws permitting the introduction of white laborers, which, being liberally interpreted, led to an indiscriminate immigration of tradesmen, craftsmen and adventurers. In this the benevolent purpose of the federal government was set at naught, if indeed, the treaties were not violated by the Indians themselves; but the powers at Washington winked at the infraction. The land of the five civilized tribes filled rapidly with a white population and the material resources of the country were developed proportionately. At this time [1894] there are 250,000 alien white residents in the Indian Territory and but about 50,000 tribal members. . . .

"After half a century of settlement and development under such anomalous conditions it may be imagined what a unique situation is presented by the Indian Territory and what a complex problem it forces upon Congress. Here are a quarter of a million United States citizen residents with many millions of dollars and an infinite amount of labor expended in fixed improvements upon soil to which they can acquire no title, without common school facilities, without governmental organization or representation, without eleemosynary or penal institutions, without care for their insane, without the simplest municipal regulations for towns of 5,000 inhabitants or state relief from the various public burdens. Despite these drawbacks it is a remarkable fact that this country has kept well abreast of the progress of the adjacent states. Little if any difference in surroundings will be noted by the traveler in passing from one of these states through the Five Nations. The churches, the schoolhouses, the stores, the residences, the mills, compresses, gins and small factories are quite as substantial, attractive and numerous in the latter section, while the face of the country shows as marked improvement. The mere statement that more than fifty newspapers and perodicals are published there will give the reader some idea of the extent of this development. . . ."

CHAPTER XXV

THE DAWES COMMISSION

The next important step was the creation of the Dawes Commission. The disturbing presence of the white intruders hastened the movement for allotment and citizenship, and in 1896 the decision of citizenship claims was taken out of the control of the Indian courts and vested with the Dawes Commission. The survey of the Indian Territory had begun.[1] "The meaning of such survey," said Agent Wisdom in September, 1895, "is too plain to be disregarded, and it is justly considered as the initial step, solemn and authoritative, toward the overthrow of their present communal holdings." The end of the peculiar civil government of the Indians was approaching. By successive enactments the jurisdiction of the Indian courts had been steadily narrowed, and the authority of the federal courts proportionately extended; the right to determine Indian citizenship had been taken from the Indians and vested in a government commission; the lands of the five tribes were surveyed and sectionized by government surveyors; by the Curtis act the entire control of tribal revenues had been taken from the five Indian tribes and vested with a resident supervising inspector, the tribal courts were abolished, allotments were made compulsory, and authority given to incorporate white men's towns in the Indian tribes.

Such in brief is a statement of the successive steps taken in bringing the Indians to citizenship during the last decade of the nineteenth century. The history of these developments is mainly an account of the Dawes Commission[2] and its work under the direction of Congress. A volume would hardly contain the records of this commission, and this chapter must deal only with the important features of its work, especially its labors in preparing the Indians for the condition of statehood.

[1] The initial point of land survey of Oklahoma and Indian Territory was a mile south of old Fort Arbuckle. A sandstone pillar five feet high and a foot or more square was placed to mark the spot. On one face were carved the letters "I. P." (Indian Principal), on the opposite the date 1870. In that year the surveyors began their work, laying off the meridian from Red river to Kansas, and the base line from Arkansas to the Panhandle. From these lines the townships and range lines of the entire state were run, but the survey in old Indian Territory was not completed until late in the '90s.

[2] A commission appointed by President Cleveland, under an act of Congress of March 3, 1893, and consisting of Henry L. Dawes of Massachusetts, chairman (1893-1903); Archibald S. McKennon of Arkansas (1893-98), and Meredith H. Kidd of Indiana (1893-95). It was increased to five members in 1895 and reduced to four in 1898. In addition to those named, it has included Frank C. Armstrong of the District of Columbia (1895-98), Thomas B. Cabaniss of Georgia (1895-97), Alexander B. Montgomery of Kentucky (1895-97), Tams Bixby of Minnesota (1897-1905), Thomas B. Needles of Illinois (1897-1905), Clifton R. Breckenridge of Arkansas (1898-1905), and William E. Standley of Kansas (1903-04). On the death of Mr. Dawes, in February, 1903, Mr. Bixby was appointed chairman. The work of the commission being finished, it expired by law July 1, 1905. As the Indian government did not dissolve until March 4, 1906, all the remaining powers of the commission were vested in the secretary of the interior during the interim and administered by a "commissioner to the five civilized tribes."

In the creation of the Dawes Commission in 1893, its objects were defined to be:

The extinguishment of tribal titles to any lands within that Territory, now held by any and all of such nations or tribes, either by cession of the same or some part thereof to the United States, or by the allotment and division of the same in severalty among the Indians of such nations or tribes, respectively, as may be entitled to the same, or by such other method as may be agreed upon between the several nations and tribes aforesaid, or each of them with the United States with a view to such an adjustment upon the basis of justice and equity as may, with the consent of the said nations of Indians, so far as may be necessary, be requisite and suitable to enable the ultimate creation of a state or states of the Union, which shall embrace the lands within said Indian Territory.

The labors of the commission during the first ten years of its existence were described in its tenth annual report, which is quoted:

"For the first five years—namely, from 1893, the year the commission was created, until 1898, when the Curtis Act was passed—this body was clothed with only negotiating power, except a limited function under the act of June 10, 1896, relating to determination of citizenship rights.

"The object of Congress from the beginning has been the dissolution of the tribal governments, the extinguishment of the communal or tribal title to the land, the vesting of possession and title in severalty among the citizens of the tribes, and the assimilation of the peoples and institutions of this Territory to our prevailing American standard.

"It was evident at the end of the first five years that the accomplishment of the foregoing object by negotiation alone was practically impossible. The Indians (so called, for most of them by a century and a quarter of intermarriage have far more Saxon than Indian blood) would never surrender by consent what they did not want to give up at all. The commission, as then constituted, was able to bring to the discussion neither inducements nor force. Some of the tribal members held passionately to their institutions from custom and patriotism, and others held with equal tenacity because of the disadvantage and privileges they enjoyed. It was almost worth a man's life at that time to advocate a change.

"Under these conditions Congress was in 1898 fairly confronted with the alternative of either abandoning its policy and abolishing the commission, or else of converting the commission from merely a negotiating body into also an executive and semi-judicial body, and of proceeding with the work under the constitutional power of Congress, and largely at least, regardless of the will of the tribes. A strenuous effort was made to prevent the adoption of the latter course. So pronounced was the opposition and so severe were the criticisms heaped upon the commission that at one time there seemed to be no doubt of success for those who favored this policy. But in what may be deemed a fortunate hour it was decided not to act without giving a chance to the special representatives of the government to be heard, both in their own defense and with respect to what course should be adopted. This led to such a revelation of slander, corruption and oppression that Congress immediately passed the Curtis Act, and it has been followed by prompt appropriations for its execution, amounting now to nearly $1,000,000.

"That act undertook, not to let anybody

and everybody come forward and take public land, but to administer upon five great estates, aggregating 20,000,000 acres. It ordered these estates to be partitioned among the individual heirs upon the principle of equal value; and it could hardly have done less, and at our expense, under the stipulations of treaties.

"Nor was it a disposition of wild lands, or of lands of uniform value. It related to vast tracts, covered by the homes and other improvements of a great population, threaded in every direction with railroads, filled with villages and large towns of the most modern character, and without a wigwam or a blanket Indian within the limits of the Territory. It was a vast and difficult undertaking; and no previous disposition of either lands or tribes afforded precedents for guidance.

"Manifestly two indispensable duties lay at the very beginning of the business—first, to determine who were the bona fide citizens or heirs entitled to inherit these properties; and, second, to take an inventory of the properties to be divided.

"When these two tasks had been performed as to any tribe, then only was it possible to begin the intelligent and equitable division of its estate. There was practically nothing to go upon in either instance, and the whole work had to be done from the beginning.

"In determining the heirs, the commission has heard and passed upon the individual applications of more than 200,000 claimants; and of this number some 128,000 have been so disposed of since the passage of the Curtis Act. All of these cases had to be made matters of record, many of them involving hundreds and some of them thousands of pages of evidence and pleading; and of the total number more than half have been rejected as not entitled to share in the properties of the tribes.

"In valuing the properties for distribution, every forty acres has had to be located, classed and platted, making some 500,000 separate items of property to be so treated; and it has been necessary to locate by careful surveys the homes and improvements of the people upon many millions of acres in order to get their correct land numbers and thus enable them to secure the lands they wish and retain possession of their homes as required by law. They had settled and lived for nearly three-quarters of a century with no regard for survey lines, and with no records such as we have in the states and in the other territories."

"The Atoka agreement," as it has been generally known, has had an important place in the history of the dissolution of tribal government because it was the first practical agreement between the Dawes Commission and one of the civilized tribes, in accordance with which the final solution of the severalty and citizenship problem was worked out. The Atoka agreement had been negotiated between the commission and the Choctaw and Chickasaw tribes, April 23, 1897, and the ratification of the agreement was appended to the Curtis Act of June 28, 1898.

The first and principal consideration in the agreement provided "That all the lands within the Indian Territory belonging to the Choctaw and Chickasaw Indians shall be allotted to the members of said tribes so as to give to each member of these tribes as far as possible a fair and equal share thereof, considering the character and fertility of the soil and the location and value of the lands."

It was provided that the allotted lands should remain untaxable for the period of

twenty-one years provided the title remained with the original allottee; that the allottee's homestead of 160 acres could not be alienated for a period of twenty-one years from date of patents, but that the remainder of the allotments might be sold, one-fourth in one year, one-fourth in three years, and the balance in five years from the date of patent.[3]

The principal features of the Curtis Act were:

1st. The enlargement and extension of the jurisdiction of the United States courts for the Indian Territory so as to include all causes of action irrespective of the parties, and so as to give those courts jurisdiction to try certain suits by or against the several tribes.

2d. The conferring of jurisdiction for police purposes on the courts and municipal authorities of Fort Smith, Arkansas, over a certain portion of the Choctaw Nation lying between the corporate limits of Fort Smith and the Arkansas and Poteau rivers and extending up the Poteau river to the mouth of Mill creek.

3d. The making of the enrollment of the tribes by the Dawes Commission conclusive as to the membership of each tribe. This provision was designed to determine definitely the membership of the tribes and dispose of all claims to citizenship.

4th. The allotment of lands in severalty to the members of the tribes by the Dawes Commission, so far as the use and occupancy of the lands were concerned, reserving all minerals for the benefit of the tribes.

5th. The leasing by the secretary of the interior of the mineral lands of the different tribes under regulations to be prescribed by him.

6th. Providing for the incorporation of towns and cities in the Territory under the provisions of the Arkansas statutes.[4]

7th. Providing for the surveying and laying out of townsites and sale of town lots within the Territory.

8th. Providing for the payment of all rents and royalties due the tribes into the treasury of the United States to the credit of the tribes, and prohibiting the collection of the same by individuals of the tribes, but permitting the leasing by individuals of their allotments, except as to minerals.

9th. Prohibiting the payment of any moneys on any account whatever to the

[3] In its eighth annual report (1901) the commission said the Atoka agreement "is inadequate and ambiguous, and affairs within those tribes may not be satisfactorily administered under its provisions. It is essential that a date be fixed for closing the rolls, that some legislation touching upon the rights and benefits of Mississippi Choctaws and other matters of somewhat less importance be had if the work of the government is to proceed satisfactorily." To remedy these conditions a supplemental agreement was had with the Choctaws and Chickasaws and ratified by Congress by act approved July 1, 1902.

[4] The subject of townsites was among the first considered by the Dawes Commission. In November, 1895, it reported the existence, along the railroad lines, of many considerable towns, with costly business blocks, residences and good improvements. But owing to the fact that none of the white citizens could gain permanent title to the lands on which the buildings were located, a feeling of insecurity and lack of permanence hindered the progress that might have marked these towns under better conditions. The commission then explained the mode of acquiring temporary title on these townsites. "Generally these towns rest on the following unsubstantial arrangement with the national authorities. A citizen Indian is first authorized by the laws of the nation to inclose for his own exclusive use any unoccupied territory. He, having first enclosed a prospective townsite, leases town lots at a ground rental, or quitclaims his title for a gross sum to the incoming builder, sometimes covenanting that if he ever gets a better title it shall inure to his grantee. Millions of dollars have been expended in the laying out of streets and building of necessary structures in these towns by those who have no other title than this, hardly more as against the holder of the fee than a tenantcy at sufferance."

tribal governments for disbursement; providing that the payment of all sums to members of the tribes shall be made by a disbursing officer of the government, under the direction of the secretary of the interior.

10th. Directing the enrollment of the freedmen of the Chickasaw Nation and the allotment of lands to them.

11th. Declaring all grazing leases made prior to January 1, 1898, to be terminated on April 1, 1899, and all farming leases made prior to January 1, 1898, to be terminated on January 1, 1900, and all leases made subsequently to January 1, 1898, to be null and void.

12th. Authorizing the segregation of 157,600 acres of lands in the Cherokee Nation for the Delawares, subject to adjudication of the rights of the Delawares.

13th. Prohibiting the enforcement of the laws of the various tribes by the United States courts in Indian Territory.

14th. Authorizing an Indian inspector in Indian Territory, to perform any duties required by law of the secretary of the interior relating to affairs therein.

15th. The abolition of all tribal courts in the Territory, and prohibition of all officers of said courts, after July 1, 1898, from performing any act theretofore authorized by law in connection with those courts, and directing the transfer of all civil and criminal cases then pending in the tribal courts to the proper United States court in the Territory. This provision did not affect the Creek court until October 1, 1898, and under other provisions of the same act did not affect the tribal courts of the Choctaws and Chickasaws at all.[5]

Even with the Curtis Act legislation, by

[5] *The Curtis Act June 28, 1898.*

Sec. 3. That said courts [U. S. District Courts] are hereby given jurisdiction in their respective districts to try cases against those who may claim to hold as members of a tribe and whose membership is denied by the tribe, but who continue to hold said lands and tenements notwithstanding the objection of the tribe; and if it be found upon trial that the same are held unlawfully against the tribe by those claiming to be members thereof, and the membership and right are disallowed by the commission to the Five [Civilized] Tribes, or the United States court, and the judgment has become final, then said court shall cause the parties charged with unlawfully holding said possessions to be removed from the same and cause the lands and tenements to be restored to the person or persons or nation or tribe of Indians entitled to the possession of the same. . . .

Sec. 11. That when the roll of citizenship of any one of said nations or tribes is fully completed as provided by law, and the survey of the lands of said nation or tribe is also completed, the commission heretofore appointed under acts of Congress, and known as the "Dawes Commission," shall proceed to allot the exclusive use and occupancy of the surface of all the lands of said nation or tribe susceptible of allotment among the citizens thereof, as shown by said roll, giving to each, so far as possible, his fair and equal share thereof, considering the nature and fertility of the soil, location, and value of same; but all oil, coal, asphalt, and mineral deposits in the lands of any tribe are reserved to such tribe, and no allotment of such lands shall carry the title to such oil, coal, asphalt, or mineral deposits; and all townsites shall be reserved to the several tribes, and shall be set apart by the commission heretofore mentioned as incapable of allotment. There shall also be reserved from allotment a sufficient amount of lands now occupied by churches, schools, parsonages, charitable institutions, and other public buildings for their present actual and necessary use, and no more, not to exceed five acres for each school and one acre for each church and each parsonage, and for such new schools as may be needed; also sufficient land for burial grounds where necessary. When such allotment of the lands of any tribe has been by them completed, said commission shall make full report thereof to the secretary of the interior for his approval. . . .

Sec. 14. That the inhabitants of any city or town in said Territory having two hundred or more residents therein may proceed, by petition to the United States court in the district in which such city or town is located, to have the same incorporated as provided in chapter twenty-nine of Mansfield's Digest of the Statutes of Arkansas, if not already incorporated thereunder; and the clerk of said court shall record all papers and perform all the acts required of the recorder of

which court jurisdiction was transferred to United States courts, and practically the entire fiscal and civil affairs of the tribes vested with federal officials, the completion of the work of the commission was subject to tedious delays. The Cherokees held out longest, the agreement between the commission and this tribe not being perfected until 1902. The question of citizenship presented extreme difficulties, and only recently have

the county, or the clerk of the county court, or the secretary of state, necessary for the incorporation of any city or town as provided in Mansfield's Digest, and such city or town government, when so authorized and organized, shall possess all the powers and exercise all the rights of similar municipalities in said state of Arkansas. All male inhabitants of such cities and towns over the age of twenty-one years, who are citizens of the United States or of either of said tribes, who have resided therein more than six months next before any election held under this act, shall be qualified voters at such election. That mayors of such cities and towns, in addition to their other powers, shall have the same jurisdiction in all civil and criminal cases arising within the corporate limits of such cities and towns as, and coextensive with, United States commissioners in the Indian Territory, and may charge, collect, and retain the same fees as such commissioners now collect and account for to the United States; and the marshal or other executive officer of such city or town may execute all processes issued in the exercise of the jurisdiction hereby conferred, and charge and collect the same fees for similar services as are allowed to constables under the laws now in force in said Territory.

All elections shall be conducted under the provisions of chapter fifty-six of said digest, entitled "Elections," so far as the same may be applicable; and all inhabitants of such cities and towns, without regard to race, shall be subject to all laws and ordinances of such city or town governments, and shall have equal rights, privileges, and protection therein. Such city or town governments shall in no case have any authority to impose upon or levy any tax against any lands in said cities or towns until after title is secured from the tribe; but all other property, including all improvements on town lots, which for the purposes of this Act shall be deemed and considered personal property, together with all occupations and privileges, shall be subject to taxation. And the councils of such cities and towns, for the support of the same and for school and other public purposes, may provide by ordinance for the assessment, levy and collection annually of a tax upon such property, not to exceed in the aggregate two per centum of the assessed value thereof, in manner provided in chapter one hundred and twenty-nine of said digest, entitled "Revenue," and for such purposes may also impose a tax upon occupations and privileges.

Such councils may also establish and maintain free schools in such cities and towns, under the provisions of sections sixty-two hundred and fifty-eight to sixty-two hundred and seventy-six, inclusive, of said digest, and may exercise all the powers conferred upon special school districts in cities and towns in the state of Arkansas by the laws of said state when the same are not in conflict with the provisions of this act.

For the purposes of this section all the laws of said state of Arkansas herein referred to, so far as applicable, are hereby put in force in said Territory; and the United States court therein shall have jurisdiction to enforce the same, and to punish any violation thereof, and the city or town councils shall pass such ordinances as may be necessary for the purpose of making the laws extended over them applicable to them and for carrying the same into effect:

Provided, That nothing in this Act, or in the laws of the State of Arkansas, shall authorize or permit the sale, or exposure for sale, of any intoxicating liquor in said Territory, or the introduction thereof into said Territory; and it shall be the duty of the district attorneys in said Territory and the officers of such municipalities to prosecute all violators of the laws of the United States relating to the introduction of intoxicating liquors into said Territory, or to their sale, or exposure for sale, therein. . . .

Sec. 21. That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is Authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit

the final rolls of citizens of the tribes been completed. In the records of the commission might be found the history of nearly every family of the Territory that laid claim to a share in the allotment of tribal lands and funds.

A fair judgment of the work of the Dawes Commission cannot be attempted. The administration of such a vast estate was a task never before undertaken in the history of the world. The records are the most voluminous ever made by a chancery

all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws.

It shall make a roll of Cherokee freedmen in strict compliance with the decree of the court of claims rendered the third day of February, eighteen hundred and ninety-six.

Said commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and laws of said tribes.

Said commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seventh, eighteen hundred and thirty, and to that end they may administer oaths, examine witnesses, and perform all other acts necessary thereto and make report to the secretary of the interior.

The roll of Creek freedmen made by J. W. Dunn, under authority of the United States, prior to March fourteenth, eighteen hundred and sixty-seven, is hereby confirmed, and said commission is directed to enroll all persons now living whose names are found on said rolls, and all descendants born since the date of said roll to persons whose names are found thereon, with such other persons of African descent as may have been rightfully admitted by the lawful authorities of the Creek Nation.

It shall make a correct roll of all Choctaw freedmen entitled to citizenship under the treaties and laws of the Choctaw Nation, and all their descendants born to them since the date of the treaty.

It shall make a correct roll of Chickasaw freedmen entitled to any rights or benefits under the treaty made in eighteen hundred and sixty-six between the United States and the Choctaw and Chickasaw tribes and their descendants born to them since the date of said treaty and forty acres of land, including their present residences and improvements, shall be allotted to each, to be selected, held, and used by them until their rights under said treaty shall be determined in such manner as shall be hereafter provided by Congress.

The several tribes may, by agreement, determine the right of persons who for any reason may claim citizenship in two or more tribes, and to allotment of lands and distribution of moneys belonging to each tribe; but if no such agreement be made, then such claimant shall be entitled to such rights in one tribe only, and may elect in which tribe he will take such right; but if he fail or refuse to make such selection in due time, he shall be enrolled in the tribe with whom he has resided, and there be given such allotment and distributions, and not elsewhere.

No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship.

Provided, however, That nothing contained in this act shall be so construed as to militate against any rights or privileges which the Mississippi Choctaws may have under the laws of or the treaties with the United States.

Said commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes, or to adopt any other means by them deemed necessary to enable them to make such rolls. They shall have access to all rolls and records of the several tribes, and the United States court in Indian Territory shall have jurisdiction to compel the officers of the tribal governments and custodians of such rolls and records to deliver same to said commission, and on their refusal or failure to do so to punish them as for contempt; as also to require all citizens of said tribes, and persons who should be so enrolled, to appear before said commission for enrollment, at such times and places as may be fixed by said commission, and to enforce obedience of all others concerned, so far as the same may be necessary, to enable said commission to make rolls as herein required, and to punish anyone who may in any manner or by any means obstruct said work.

The rolls so made, when approved by the secretary of the interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such

court. The problems involved were peculiar, requiring tact, patience and almost endless negotiation. Selfishness and greed had to be contended with, as well as the ignorance and stolid stubbornness of the Indian race. As in all transactions with the Indian race since white men settled this nation, there were instances of individuals who were ready to take advantage of the situation and turn their labors to personal profit. Charges were made and in part substantiated by investigation that the Indians were unfairly dealt with, that some of the men entrusted with the equitable division of the tribal estates allowed their own or other selfish interests to guide their actions. But many of the matters in question are now before the courts, and a later historical inquiry must describe the true situation. The practical labors of the commission have ended, the Indians of the five tribes now live each on his own allotment, and are citizens both of the United States and of the State of Oklahoma. On March 4, 1906, the tribal governments, under which the Cherokees, Creeks, Seminoles, Choctaws and Chickasaws had lived for generations, were dissolved, the chiefs and governors became citizens in the American sense, and their people awaited the formation of a state government to accept and share its responsibilities and privileges.

A review of the situation of the Indians of the five tribes is presented in the report of Secretary of the Interior Garfield (February, 1908), which is quoted in part:

"On June 30, 1905, the greater part of the work coming within the jurisdiction of the commissioner to the five civilized tribes had been completed, thereby making the supervision of a board of commissioners no longer necessary, and in accordance with the provisions of the act of Congress approved March 3, 1905, the work was placed under the immediate supervision of the secretary of the interior, and the chairman of the commission to the five civilized tribes was appointed commissioner to the five civilized tribes to represent him in this work.

"There were enrolled up to and including March 4, 1907, a total of 101,211 citizens and freedmen in the five civilized tribes, classified as follows:

persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

The members of said commission shall, in performing all duties required of them by law, have authority to administer oaths, examine witnesses, and send for persons and papers; and any person who shall willfully and knowingly make any false affidavit or oath, to any material fact or matter before any member of said commission, or before any other officer authorized to administer oaths, to any affidavit or other papers to be filed or oath taken before said commission, shall be deemed guilty of perjury, and on conviction thereof shall be punished as for such offense. . . .

Sec. 26. That on and after the passage of this act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the courts of the United States in the Indian Territory.

Sec. 27. That the secretary of the interior is authorized to locate one Indian inspector in Indian Territory, who may, under his authority and direction, perform any duties required of the secretary of the interior by law, relating to affairs therein.

Sec. 28. That on the first day of July, eighteen hundred and ninety-eight, all tribal courts in Indian Territory shall be abolished, and no officer of said courts shall thereafter have any authority whatever to do or perform any act theretofore authorized by any law in connection with said courts, or to receive any pay for same; and all civil and criminal causes then pending in any such court shall be transferred to the United States court in said Territory by filing with the clerk of the court the original papers in the suit:

Provided, That this section shall not be in force as to the Chickasaw, Choctaw and Creek tribes or nations until the first day of October, eighteen hundred and ninety-eight.

	Full bloods.	Part bloods.	Inter-married.	Freed-men.	Total.
Choctaws ...	8,319	10,716	1,586	5,994	26,615
Chickasaws .	1,538	4,146	635	4,670	10,989
Creeks	6,812	5,083	...	6,803	18,698
Cherokees ..	6,601	*29,975	286	4,923	41,785
Seminoles ...	1,399	739	...	986	3,124
Total 24,669		50,659	2,507	23,376	101,211

*Includes 197 registered Delawares.

"Applications for allotments were received during the year at the respective land offices of the commissioner to the five civilized tribes, located at Muskogee, Atoka and Ardmore, and at the close of the year allotments had been made to the majority of the citizens and freedmen of the five civilized tribes. The allotment work consisted principally of the making of allotments to minor children enrolled under the act of Congress approved April 26, 1906, and to those citizens and freedmen previously enrolled but who had not selected the entire amount of land to which they were entitled.

"Copies of the final rolls of citizens and freedmen of the five civilized tribes are being made, which will soon be printed in book form and ready for sale.

"The enrollment work, with the exception of those cases now pending in the courts, having been completed, the work remaining undisposed of concerns largely the making of allotments to those few persons for whom no selections have been made and those to whom it will be necessary to allot additional land for the purpose of completing their allotments to the full amount.

"The closing of the rolls marks the beginning of the last period in the settlement of the relations between these tribes and the national government. The work of the allotting commissions can now be completed, and there will be left only the final disposition of the surplus lands and the execution of such laws as Congress may enact relative to the disposition of the tribal funds and the removal of the property restrictions remaining upon certain classes of Indians. Requests have been presented, and doubtless efforts will be made to reopen some if not all of these rolls, but it is to be hoped that such action will not be taken. Without doubt there are persons on the rolls who are not entitled to be there, and there are persons not on the rolls whose names should be there, but after the years of painstaking inquiry and determinations made by the citizenship court, by the commissioner to the five civilized tribes, and finally by the secretary of the interior, it is believed that the cases of injustice or mistake are too few to justify an action that would surely result in thousands of claims being presented for readjudication.

"The problems presented for immediate consideration are those affecting the Indian lands. There were approximately nineteen million acres in the Indian Territory, all of which were until within the last few years not subject to alienation, and hence not subject to taxation. From time to time certain of these lands have, by act of Congress or by the act of the secretary of the interior, been relieved from these restrictions, sold, and subjected to taxation. The land thus relieved approximately amounts to three million acres.

"From these figures it is apparent that there is not enough land subject to taxation in the old Indian Territory portion of the State of Oklahoma to support the county governments, townships and schools; but the question of removing restrictions from these lands must not be considered solely with a view of levying taxes. These lands are owned by Indians many of whom are incapable of properly caring for their property interests. It is the duty of the govern-

ment to see that the rights of the incompetent and incapable ones are fully protected. Under the enabling act the government definitely retains all the power that it formerly held over these Indians and their lands, and the federal government must see to it that no improper burden is placed upon these people and no action taken that will permit their property to be taken from them and they left penniless to become public charges.

"Those Indians who are now capable as the average white man of caring for their property and performing all the duties of citizens should be placed upon the same footing and given the same burdens as the white man. In no other way can these men become independent, self-supporting citizens. But for those who are not so qualified, the government must continue to act as guardian as far as their land is concerned. The experience since the opening of this territory to white settlement shows most clearly that it is not safe to remove all restrictions. The dealings of the white man in the Indian Territory, in the acquisition of the valuable agricultural and oil lands, have shown too many instances of unconscionable greed and dishonesty. The agricultural lands in the Indian Territory are wonderfully fertile, having increased many fold in value during the past ten years. But, in addition to this, the discovery of the deposits of oil and coal has made certain sections of that country very much more valuable and has tremendously increased the desire of white men to obtain control of those sections. Thus far these oil and coal lands have been handled under a system of leasing controlled by the interior department.

"As between these two extreme views there is a middle ground which will protect the Indian and at the same time permit the development of the country by throwing open many millions of acres to sale and taxation. I therefore recommend the following general plan for the removal of restrictions:

"First—By act of Congress remove the restrictions from both homesteads and surplus lands owned by citizens not of Indian blood and by citizens of mixed blood whose quantum of Indian blood is less than one-half; also remove the restrictions from the surplus lands owned by all other citizens of mixed blood.

"Second—Empower the secretary of the interior to remove restrictions in individual cases from homesteads owned by citizens of mixed blood whose quantum of Indian blood is one-half or more, and from homesteads or surplus lands owned by fullblood citizens; provided, however, that no homestead shall be reduced to less than eighty acres.

"The power of the secretary to remove restrictions should carry with it the power, in cases where the facts warrant, to pass upon the adequacy of the consideration and to provide for the use or care of proceeds of sale for the purpose of providing for the maintenance of the Indian or the improvement of the homestead.

"The quantum of Indian blood and age of persons should be determined by the entry upon the approved citizenship rolls."

The recommendations of the secretary as to the disposal of certain portions of the Indian lands were enacted into law by an act approved May 27, 1908.[9] The removal of restrictions from about nine million acres in the old Indian Territory, which took place on July 27, 1908, was hailed as a "red letter day" for Oklahoma, and was

the occasion of much celebration throughout the state. The significance of the event, as viewed at the time, may be best expressed by quoting the following editorial:

"With the restrictions removed from the alienation of some 9,000,000 acres of Indian lands, the people of eastern Oklahoma begin to feel that the shackles that have bound them for many years are at last being removed.

"It means opportunity for development of that section of the state, such as it has never before known.

"No longer will its cities and towns remain as pent-up Uticas, but will have an opportunity to expand and prosper. Their environments will be purchased by bona fide farmers, the soil will be tilled and crops grown, and the prosperity of such communities placed upon a firm foundation.

"That part of Oklahoma which was once Indian Territory is to have a chance. County governments that have been organized will be financed, lands and property will be taxed as in other parts of the state, schools will be organized where now there are none, roads will be builded where none now exist.

"Eastern Oklahoma now has an opportunity."[7]

[6] The act providing for the removal of restrictions from the lands of part-blood Indians, approved by the president May 27, 1908, contained in substance the following provisions:

That from and after sixty days from the date of this act the status of the lands allotted heretofore or hereafter to allottees of the five civilized tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites, as freedmen, and as mixed blood [illegible]ns having less than half Indian blood, including minors, shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed blood Indians having half or more than half and less than three-quarters Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed blood Indians having half or more than half Indian blood, including minors of such degrees of blood, and all allotted lands of enrolled living full bloods, including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April twenty-sixth, nineteen hundred and thirty-one, except that the secretary of the interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. . .

Sec. 2. That all lands other than homesteads allotted to members of the five civilized tribes from which restrictions have not been removed may be leased by the allottee, if an adult, or by guardian or curator under order of the proper probate court, if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal. . . .

Sec. 3. That the rolls of citizenship and of freedmen of the five civilized tribes approved by the secretary of the interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen or freedmen of said tribes, and of no other persons, to determine questions arising under this act, and the enrollment records of the commissioner to the five civilized tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman. . . .

Sec. 4. That all land from which restrictions have been or shall be removed shall be subject to taxation and all other civil burdens, as though it were the property of other persons than allottees of the five civilized tribes: Provided, That allotted lands shall not be subjected or held liable to any form of personal claim or demand against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law.

Sec. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this act, which affects the title of the land allotted to allottees of the five civilized tribes prior to removal of restrictions therefrom, and also any lease of such restricted land made in violation to law before or after the approval of this act shall be absolutely null and void.

Sec. 6. That the persons and property of minor allottees of the five civilized tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the state of Oklahoma. . . .

[7] Perhaps some kindly critic who has followed the fortunes of the Indian tribes as described in the preceding chapters may see in the following

quotations from the daily press an effective modern instance that supports in some degree the severe criticism once passed by de Tocqueville on the dealings of our government with the Indians. No doubt the incidents are exaggerated somewhat, but there is much substantial truth in the assertions, and they prove the enormous difficulties that have always beset the faithful administration of Indian affairs, and show that with the absorption of Indian Territory in an American commonwealth has come a sort of moral laxness that must be purged away by the state in the same way that the state has undertaken to relieve itself of the criminal element that was a heritage of the old regime. The article (dated July 27) follows:

"'Stung by the grafting allottees,' is the way the land buyers tonight are summing up the sequel to the removal of restrictions in eastern Oklahoma, and, while the Indians and negroes are giving the prospective buyers the laugh, they have proved themselves past grand masters in the art of grafting and have put a quietus to the much heralded sale of lands by pooling their lands and doubling the price.

"While it was expected that in the early hours of the morning thousands of acres would change hands under the action of the government in removing the shackles, a careful summing up tonight shows that but 174 deeds have been filed in Muskogee county, when it was expected that today's result would show in three figures.

"Land buyers made no effort to conceal their surprise and chagrin this morning when the facts of the various pools were promulgated. The Indians, after living off the prospective buyers for the past week, have become possessed of considerable money, enough at least to hold out against the offers of the buyers, who now face the ultimatum of paying double or not at all.

"Reports of similar conditions are coming in from other counties. With ten million acres of land in forty counties released today the land men have not been able to buy one-tenth of what they expected. It developed that a great deal of the land had been plastered with five-year leases to keep other buyers off.

"It was charged today that buyers had caused the arrest of many allottees on various complaints last night in order to get them imprisoned and this morning would go to the jail and agree to pay their fines and make their bonds if they would sell their lands. One buyer lured six negroes into a crap game and then had them arrested and jailed for safe keeping. Prosecutions, it was rumored, will probably follow.

"Assistant Attorney General Russell today issued a warning to people against buying lands upon which government suits have been filed.

"The land is selling cheap. The buyers are anxious to get it, but their anxiety lies in the price, not the scarcity of land. They are choosing the best and buying it cheap. It is the belief of many that this scramble is unnecessary and that land will be just as cheap three weeks hence as it is now.

"The buyers are taking no chances on the negro and Indian allottees grafting them this time. This is the sale that sticks. So most of them have had their cappers out, using negroes and Indians for the work, and corralled the owners of the land they want to buy, and they have, in one way and another, kept them under guard ever since. One buyer has seven rooms in a building right in the heart of the city and he has had negroes corralled there three days. They are furnished everything they want, the only condition imposed that they do not leave the rooms or allow anyone else to enter. Guards in the hallway night and day see that this rule is obeyed. They made deeds to their land at midnight.

"Two buyers found an old negro woman who is land poor. They sent her to Kansas City and found her a place as a housemaid and she is paid $10 per week. The owner of the house gets her services free. The land buyers are putting up the $10. She is safe from other buyers and as she never before saw $10 per week she will sell all her land and that of her children and decide to live in Kansas City. As soon as the land is bought the buyers will cut off her pay and she will find herself without land and without a job.

"Another buyer, more ambitious, got fifteen negroes together and made an agreement to buy their land. He bought tickets and sent them all to St. Louis in charge of a young white man who was to look after them, show them the sights and pay for whatever they wanted on their vacation. At midnight tonight deeds were to be taken on all their lands. Everything went well until the bunch was steered up against a negro minstrel show and during the excitement the negroes became scattered and lost the man who had them in charge.

"One firm in Muskogee has rented a hotel and there are being entertained the land owners that have made agreements to sell land to the firm. Another firm has rented a large hall and is running a night and day watermelon festival. They are dealing principally in negro lands. It is no trouble to keep the negroes there. Another firm has started a three days' picnic in the country, but no one is invited to attend except the people from whom they hope to buy land.

"The buyers use negro and Indian cappers to secure and bring the allottees in and boost the sale along in every way. The capper gets a percentage on every sale he helps put through in this way.

The cappers watch the people they bring in and the buyers watch the cappers to see that they do not give them a crooked deal.

"Much of the money being paid for the land is brought in from the outside. Nearly every buying firm has someone who is putting up all the money wanted with which to buy land. One walked into an office with $30,000 and said: 'Buy land with this.' He is getting the land.

"Advices from other towns indicate that what is going on in Muskogee is being repeated in practically every county in the old Indian Territory."

PART VI

OKLAHOMA STATEHOOD

CHAPTER XXVI.

THE STATEHOOD MOVEMENT

The year 1906 will be always regarded as the year when the preparation of Oklahoma and Indian territories for statehood was finished; when manifold influences and human endeavors were brought to a climax of fruition. On March 4 the five civilized tribes ceased legally to exist. In the latter part of the same year the opening of the "Big Pasture" in southwestern Oklahoma completed the expansion of settlement over that territory. On the one side, 350,000 Indians and whites were working together, on terms of equality and free individual competition, for the advancement of common institutions and material and social prosperity. On the other side, 400,000 inhabitants of an organized territory were pursuing happiness and domestic welfare with no restrictions except such as the federal government imposed. Between these two peoples were no differences of race or political prejudice, and only an irregular and unscientific boundary line placed a nominal distinction between their social and business activities. There were, it is true, inequalities of development between the two sections. The larger portion of Oklahoma had for years possessed civil organization after the manner of older states; it had public roads, a public school system, and other institutions of organized society; Indian Territory was at the beginning of development in some of these things. But, of greater importance than these differences, the two territories were the natural complement of each other. The eastern territory was the richer in its natural resources, the western in its agricultural development and business experience. The coal and oil and gas and other mineral products that Oklahoma used came from the Indian Territory. Railroad building in recent years had been from east to west, rather than parallel to the original trunk lines from Kansas to Red river. All the tendencies of business were towards linking the two territories into an inseparable alliance.

In the year 1906, then, it seemed that all objections had been removed that had from time to time been urged against the bestowal of statehood upon these territories. Their population, their business enterprise, their social status and their political intelligence entitled them to this recognition. It only remained for Congress to indicate the manner in which it should be bestowed.

It would be a simple matter to describe the giving of statehood to Oklahoma and Indian Territory, had it involved only the preparation of the two territories for the conditions which have been described. Perhaps the wisdom of the nation's government would have found no better proof, had the policy been firmly announced at the beginning that the political destiny of the two territories was joint statehood, and that each must go through the full period of its peculiar economic development before the sanction of Congress would rest upon the proposed commonwealth. Such

a policy would no doubt have stimulated all parties to persistent endeavor for the great goal. In time, both territories would have completed their novitiate, and the testing over, would have taken their reward gratefully and pressed on to the higher ends of an American commonwealth.

But, as the record of history shows, the agitation for statehood continued for fifteen years and involved in its discussions from time to time, all the events in the history of the two territories during that period. It requires only a reading of the mass of material used in the various statehood debates, memorials and congressional hearings, to obtain a complete history of the territories during these years. Furthermore, unfortunately, the movement after a time became involved in the uncertainties of partisan politics, and it will always remain to the discredit of the general government that the admission of Oklahoma was decided not alone on its merits but as an issue between factions in Congress.

The first statehood convention was held at Oklahoma City, December 15, 1891, a year and a half after the organization of Oklahoma Territory. Delegates were present from the Oklahoma counties, and part of the Indian Territory was also represented. It was said to be non-partisan in composition and action, and as a result of its discussions the first statehood memorial[1] was drawn up and presented to Congress, praying for affirmative action on the statehood bill which was to be introduced in the house about that time by Delegate Harvey. A resolution provided for an executive committee, of one member from each county, to prepare an enabling act for the admission of Oklahoma as a state, to include all of the old Indian Territory. The members of the first statehood executive committee were: Sidney Clarke, Oklahoma county (elected chairman); W. P. Hackney, Logan county; S. H. Harris, Cleveland county; J. P. Cummins, Kingfisher county; William J. Grant, Canadian county; George F. Payne, Beaver county; F. J. Wykoff, Payne county; W. M. Allison, county A (Lincoln); J. H. Woods, county B (Pottawatomie), and H. C. Potterf, Chickasaw county.

Following the instructions of the first

[1] *Memorial Adopted at Statehood Convention in Oklahoma City December 15, 1891.*

To the Congress of the United States:

The people of Oklahoma Territory, without distinction of party, assembled in convention at Oklahoma City on December 15, 1891, hereby submit to the Congress of the United States the following statement of facts relative to the condition of the territory and the section of country occupied by the five civilized tribes, and in behalf of the passage of an enabling act providing for the admission of Oklahoma as a state.

That area of the old Indian Territory comprises 68,991 square miles or 44,154,240 acres of land;

That this area is exceeded by only fourteen states of the Union, and that in fertility of soil and in its capacity for agricultural and mineral production is not excelled by any other section of the United States;

That the committee on territories of the house of representatives of the fifty-first Congress reported that "excluding the full-blood Indians there are in the Indian Territory and Oklahoma about 247,200 people, who are either white or of mixed blood, but who in personal appearance and in their habits and customs and in their intelligence do not differ materially from the people who inhabit other parts of the United States";

That since said report was made the Indian title to more than 5,000,000 acres of land in Oklahoma territory has been extinguished, and has been opened and is about to be opened to settlement; adding, with the increase of other sections, not less than 50,000 to our population, and increasing the sum total to about 300,000;

That the opening to settlement of other lands in the near future will only be in rapidity of settlement a repetition of settlements already made, and that before the expiration of the present Congress there will be in Oklahoma and Indian Territory a population of half a million people;

That the population of Oklahoma territory

statehood convention, Delegate Harvey introduced into the house a bill (H. R. 4629) "to extend state lines around the Indian Territory." Thus the first statehood bill considered in Congress provided for single statehood, including the country of the five civilized tribes as well as the territory under territorial organization as Oklahoma. During February, 1892, the committee on territories held hearings on this bill, and before them appeared members of the statehood executive committee, headed by Sidney Clarke, and also several prominent citizens from the Indian Territory side. The arguments proposed in the resolutions of the Oklahoma City convention were stated with varying degrees of emphasis by the advocates of the bill. One of the principal speakers in opposition was E. C. Boudinot, of the Cherokee Nation, who maintained in the first place that the extension of state lines around the country granted to the five tribes by treaty could not be legally done unless the Indians con-

proper by the federal census of 1890, before the opening of the new lands, was 61,934, which exceeds the population of either of the states of Illinois, Ohio, Nevada, Oregon and Wyoming at the time they were admitted as states, and that not a single territory, with the exception of Washington and South Dakota, has had a population equal to Oklahoma, with the five tribes included, when admitted to the rights and privileges of statehood;

That the rapid settlement and development of Oklahoma has been exceptional. Cities have been born in a day, and vast areas of the public domain have been as speedily occupied by an industrious and thriving population. A single year has witnessed more development in Oklahoma than has taken place in any other territory in a whole decade;

That in the interest of good government all of the old Indian Territory should be included in the future state of Oklahoma, and that by so doing there will be no conflict with treaty stipulations and no infringement upon the rights of property of the Indian tribes;

That following the uniform precedents established by Congress in the admission of states, we favor the protection of the Indians in all their legal and equitable rights under the treaties and agreements. We believe, in the language of President Harrison in his recent message, that "The relation of the five civilized tribes now occupying the Indian Territory to the United States . . . is not best calculated to promote the highest advancement of these Indians. That there should be within our borders five independent states, having no relations except those growing out of treaties with the government of the United States, no representation in the nation's legislation, its people not citizens, is a startling anomaly." And we further agree with the president that "it seems to be inevitable that there shall be before long some organic changes in relation to these people." We believe these changes should come through statehood, citizenship, equitable laws, home courts, prompt suppression of crime, and equal representation;

That while we are at all times loyal to the federal government, and fully recognize the constitutional power of Congress to enact all laws for the government of the territories, we seek self-government and home rule as a necessity for our full measure of prosperity, and as a part of the pride and glory of all patriotic citizens;

That here, as in other territories, the divided jurisdiction between Congress and the territorial legislature is an impediment to the investment of capital, to the permanency of manufacturing and business enterprises, and inefficient and unsatisfactory in the protection of life and property;

That we have more than 1,000 miles of railway now in operation, other lines in progress of construction, and with the confidence that would be assured by the passage of an enabling act by Congress providing for the formation of a state government, many more lines would be projected;

We therefore declare that, in view of the extent of territory we ask to be included within the geographical limits of the state of Oklahoma, the number of our population, the variety and magnificence of our material resources, the business, educational, religious, and social conditions which exist here, and the aggressive and enterprising character of our people, the time has come for Congress to pass an enabling act as herein indicated, and that at an early day we should be permitted to throw off our territorial pupilage and assume the dignity and responsibility of a sovereign state.

J. P. Lane,
President of the Convention.
T. M. Upshaw,
Secretary of the Convention.

sented; and furthermore, that the proposition of statehood for the five tribes was premature. A reading of the arguments used before the committee during the several weeks that the hearings were continued shows that every phase of the Indian Territory problem was discussed. So far as Oklahoma territory was concerned, its claim for statehood became merely a matter of statistics, as has always been generally true. Its population, its taxable wealth, its railroads, its agricultural and industrial development, its schools and the capacity of its people for self-government, were set forth in a manner that did not admit of dispute as to the facts. And with each following year, when the advocates of Oklahoma statehood appeared before Congress, they summoned practically the same substantial facts to support their cause, the only difference being that with each year Oklahoma became larger in area, stronger in population and development, and better fitted for the responsibilities it desired to assume.

With Indian Territory the case was different. Mr. Boudinot's assertion, before the committee in 1892, that the treaty guarantees stood in the way of statehood and that the Indians themselves were not yet prepared for such a change, summed up the argument against joining Indian Territory with Oklahoma. For nearly fifteen years following, the energies of the government were directed towards solving the very problems presented by Boudinot's objections. And not until the consent of the five tribes was obtained, and only after the Dawes Commission had labored many years for the dissolution of the tribal system and the preparation of the Indians for living according to the white man's laws and customs, did Congress give statehood for the Indian country.

At the inter-territorial statehood convention held at Purcell, September 30, 1893, the memorial to Congress asked, 1st, that the five petty sovereignties known as the five civilized tribes of the Indian Territory, existing by right of treaty, be summarily abolished; 2d, that the lands held by federal patent in common by the Cherokees, Creeks, Seminoles, Choctaws and Chickasaws, be alloted in equal pro rata severalty, with proper reservations, to the bona fide citizens of the aforesaid Indian governments; and, 3d, that the domain occupied by them be made to form a part of a commonwealth of the American union.

The arguments to support this request may be summarized briefly: In the five tribes were 70,000 Indian citizens and 150,000 United States citizens. Three-fourths of the former were of mixed white blood. The value of the Indian school property was estimated at $800,000, and $350,000 was expended annually to support the Indian schools. Education for the non-citizen whites depended on private contributions, resulting in injurious discrimination between the two classes of inhabitants. The expense of maintaining the tribal government, to which less than a third of the residents claimed allegiance, largely exceeded the expense of maintaining an honest state government for both Indian Territory and Oklahoma. Taxation in Indian Territory was inequitable. "The full-blood Indian, with an acre of corn, and the owner of but one pony, pays the same tax to support his government as does the intermarried white who farms thousands of acres and pastures tens of thousand of cattle." Besides, the non-citizens had to pay the tribal government's personal taxes for the privilege of residence and for all merchandise sold and business transacted in the country. The real Indian profited little by

the tribal government. A large share of his annuities fell into the hands of preying wolves, "within and out of the fold, who rob them coming and going," while white landlords with tribal rights obtained through marriage controlled the best lands and had "fenced the full-bloods off upon the discarded and worthless lands." The tribal governments "are mere oligarchies for self-aggrandizement and public spoliation." Five conflicting court jurisdictions fostered crime and made justice a travesty. The white non-citizens, the wealth-producers of the territory, were subjected to oppressive regulations by the tribal governments, and the restriction of leases to annual periods made permanent progress impossible and all property rights insecure. "We have no asylums for our insane; no institutions of charity and philanthropy; no penitentiaries for the confinement of our criminals; no relief for the multitudinous public burdens which should properly be borne by the state."

Following the Purcell convention, one was held at Kingfisher, November 28, 1893, representing Oklahoma and parts of Indian Territory. Soon after the assembling of Congress in December, 1893, a bill (H. R. 4857) was introduced to enable the people of Oklahoma to form a constitution and state government. This was an Oklahoma bill, providing for statehood for this territory without reference to Indian Territory. General Wheeler, of Alabama, reported the bill from the committee on the territories, December 20, with strong recommendations that it be passed. This and other house bills, that in successive sessions were persistently urged for passage in the house, were consigned to oblivion in the senate committee. During 1894, before a senate sub-committee, exhaustive hearings were taken on the bill, and the record of these hearings is a complete review of conditions in both territories.

The Oklahoma statehood delegation returned to Washington year after year, and there was no let up to the agitation from that side. It has been said that when Oklahomans had no other diversion they called a statehood convention. Such conventions were held, from time to time, in all the principal towns of the territory, and each one supplied its statehood committee with a fresh lot of argument to reinforce that used before.

Ten years passed before the statehood movement had any promise of success. In the meantime more immediate problems were pressing for solution. In Indian Territory the efforts of the Dawes Commission were unavailing until the Curtis Act of 1898, and a vast amount of negotiation and administrative work followed before that territory could be brought into a condition to receive statehood. In Oklahoma, during the financial panic of the early nineties, and as a result of crop failures, the settlers had experienced difficulties in paying for their lands, and the mass of the population were poor and struggling. Of greater importance to them than statehood was the movement which became a local political issue in the campaign of 1896, to relieve the settlers of their remaining payments on homesteads. This was the "free homes" legislation that was urged before Congress for several successive sessions, the champion of which was Delegate Flynn.[2] It finally became a law, with results that were described as follows: "Savings that had been laid away to make the payments [on homesteads] were suddenly a surplus, and the effect has been seen in additions to the houses, new buggies and

[2] See sketch of Dennis Flynn.

trips to the old eastern homes. It [the bill] has given the first good hearty breathing spell enjoyed by thousands of families since the opening."

In 1899 a bill passed both houses of the Oklahoma legislature calling a convention to form a state constitution for Oklahoma and providing that the Indian Territory should be added to the state by piecemeal. This bill was vetoed by Governor Barnes, for the following reasons: "The recent action of Congress refusing to ratify treaties with the Cherokees and Creeks, pledging the United States to a policy of continued separation of the two territories, is significant to the thoughtful mind and indicates a well settled and determined purpose in the minds of senators and representatives never to admit Indian Territory and Oklahoma as two states. And I feel sure that the ultimate destiny of the two territories is that of single statehood. This being true, to hold a constitutional convention at this time, to form a constitution for Oklahoma upon the lines laid down in this bill, would not advance the matter in the slightest degree, but, on the contrary, would retard and hinder the growth of a healthful political sentiment in the Indian Territory in favor of such a union."

This brings to notice a very important phase of the statehood movement. For several years a large support was given to the proposal that Congress legislate for Oklahoma statehood alone, with a provision similar to that contained in the territorial organic act that Indian Territory should be added to the state as soon as it was prepared for that condition. Undoubtedly such a course would have been to the advantage of Guthrie and Oklahoma politicians, since by the admission of Oklahoma alone and the subsequent piecemeal absorption of Indian Territory, the center of government and political power would have remained on the Oklahoma side, and presumably about Guthrie as the capital. But no doubt there were more praiseworthy motives behind this proposal. Evidently persuaded that the destiny of the two territories was joint statehood, and wearied by the futile efforts to obtain any kind of enabling act, the statehood agitators hoped by proposing a new solution of the question to hasten the day when Oklahoma should enter the Union, unimpeded by the slow progress of the Dawes Commission on the eastern side.

It would be impossible to state the exact proportion of public opinion in each of the territories for or against statehood, either separate or joint. In Oklahoma territory, beginning with the time when the question of statehood got into the larger realm of national politics, the local interests were complicated with the political phases of the matter, and opinion divided in most unexpected ways. At first, while the movement was under way to admit Oklahoma with the later addition of Indian Territory, the Republican party was committed to this form of single statehood, since, they reasoned, Oklahoma alone would be a Republican state. Guthrie, of course, being the center of the dominant party at the time, gave its support to this. On the other hand, Oklahoma City, as the business center, with its interests closely related to Indian Territory, favored the single state idea without any conditions. At the same time the Democratic party in Congress, foreseeing in double statehood the addition of two Democratic states, naturally contended for the separate admission of the two territories. In this way, after statehood agitation had taken on a political aspect, unanimity of opinion became impossible, and from that time forward partisan

discussion marked every step in the movement. On the Indian Territory side, interests were equally at variance. So far as those principally interested were concerned—the five tribes—a definite expression of opinion would have been hard to obtain. Their affairs were just then undergoing reorganization and their political status was of less moment than the more immediate material concerns. As to the large body of whites, they were divided on the issue, though, the majority being Democrats, their preferences were expressed for the measures advocated by that party.

As a result of the effort to get statehood for Oklahoma alone, along the lines indicated by the action of the Oklahoma legislature above noticed, Delegate Flynn had introduced a bill in the house, and continued his support of this legislation until Oklahoma statehood became involved with the fortunes of Arizona and New Mexico. This gave an entirely new turn to the movement, and from that time forward those two southwestern territories clogged every step in the progress of Oklahoma toward statehood. Senator Quay, of Pennsylvania, was the astute congressional leader who henceforth took command and held the fate of the four territories in his hands until death removed him from the arena of one of the most spectacular struggles ever witnessed in the halls of Congress. Senator Quay represented the interests that were supporting separate statehood for Arizona and New Mexico. Those territories, especially New Mexico, had been seeking admittance to the Union for half a century. It is not necessary to state the grounds on which statehood had been withheld. It had been proposed, and a strong sentiment had developed in Congress in its favor, to unite these territories as one state. But, as subsequent events proved, the corporate and other influences behind the movement that had Quay's support were directed to separate statehood, and all the political power and able generalship of the Pennsylvania senator were employed to bring about that result. Facing defeat so long as these territories alone were involved, he very shrewdly united the statehood forces of all four territories in support of the "omnibus bill," which had passed the house, providing that Oklahoma, New Mexico and Arizona should at the same time and under one act enter the union of states. It was a clever plan, and all but succeeded. In previous years the senate had been the tomb of all Oklahoma statehood bills. But with such a leader as Quay, whose influence in the senate at that time was second to none, the success of the "omnibus bill" seemed assured, and the Oklahomans quickly rallied to its support.

This was the situation at the beginning of the fifty-seventh Congress, in 1901-02. In the meantime, on November 12, 1901, a convention had been held in Indian Territory, at Muskogee, representing presumably the interests of that section in the statehood question. The convention declared for joint statehood for the two territories, and Thomas H. Doyle was chairman of the delegation selected at this convention to present the subject to Congress. He assisted in the drawing of the bill which was presented in the house by Mr. Stephens, of Texas (known as the Stephens' statehood bill) and of a similar bill which Mr. Patterson introduced into the senate (known as the Patterson bill). These bills provided for joint statehood, and were in line with the memorial of the Oklahoma legislature, approved in March, 1901, demanding the union of the two territories

as one state. An opposite course of legislation was demanded, in bills then pending before the national house and senate, in what was known as the "omnibus bill" (what was known as the Flynn bill was identical with the latter), asking for separate statehood for each of the four territories of Arizona, New Mexico, Oklahoma and Indian Territory.[1]

At the non-partisan single-statehood convention, held in Oklahoma City in January, 1902, said to have been the largest ever held in either territory, some of the resolutions adopted will indicate the trend of opinion and the principal arguments used at that time.

"We, the people of Oklahoma and Indian Territory, in convention assembled, confident that organic union is our manifest destiny, again proclaim to the Congress that we favor the creation of a single state out of the area now embraced within both of these territories, and we offer the following reasons in support of our position:

"First. Oklahoma's area is 39,000 square miles; that of Indian Territory only 31,000 square miles. The average area of the states and territories west of the Mississippi is more than 100,000 square miles, while that of Texas, our next-door neighbor, is 265,000. Our combined area will make a state less than 70 per cent of the

[1] The prospect of success for the statehood movement in 1902 aroused opposition among the Indians of the five tribes. It was claimed that the Indian lobby always present at Washington as a counter-check upon the statehood agitators was supported by certain powerful interests that had much at stake in retaining the territory as it was. However, the protest submitted through the interior department to the senate in December, 1902, presents very convincing arguments against statehood for the eastern territory at that time. The protest is an important document in the history of statehood, and follows:

"WHEREAS, The five civilized tribes of the Indian Territory have by agreements made . . . with the United States provided for the dissolution of their tribal governments; and

"WHEREAS, The changed conditions brought about by such agreements require a complete revolution in our land tenure, and new laws and usages unknown to the Indians composing the five tribes of the Indian Territory, which conditions will require time for the Indians to adapt themselves to the changed order of things; and

"WHEREAS, These changes were apparent to the contracting parties at the time of the making of said agreements, which is evidenced by the fact that a separate political organization was provided for the Indian Territory, and the period for the dissolution of said tribal governments was fixed at March 4, 1906; and

"WHEREAS, Citizens of the United States, and not Indians, now resident in and upon the lands of the five tribes, are making by petition and lobby influence efforts to induce the Congress of the United States to ignore the letter and spirit of these agreements by placing the Indian Territory under the laws of Oklahoma territory; failing in that, to organize a United States territory out of the present judicial organization known as the Indian Territory, either of which propositions would delay the work of the government as now organized and satisfactorily proceeding under the direction of the secretary of the interior for the fulfillment of the agreements referred to: Now, therefore, be it

"*Resolved*, By the duly authorized representatives of the five civilized tribes in convention assembled at Eufaula, Creek Nation, Ind. T., November 28, 1902: . . .

"We are opposed to and protest against any legislation by Congress that contemplates the annexation of the Indian Territory, or any part thereof, to the territory of Oklahoma, or to any state; and we insist upon our tribal governments continuing intact and our tribal conditions remaining unchanged until March 4, 1906, at which time, should Congress deem it wise, we ask that a state be formed out of the territory composing Indian Territory without the preliminary steps of a territorial form of government."

The protestants further declared that the regulations prescribed by the interior department were sufficient government until the dissolution of the tribes, in preparation for which event the people should, at the proper time, take steps to establish a state form of government. But in the meantime, it was claimed, those individuals and organizations in Indian Territory asking for a territorial form of government or joint statehood with Oklahoma, did not represent the Indian population and only a small part of the white people.

size of the average western state, while taken separately we will be the two Rhode Islands of the west.

"Second. The resources of the two territories complement each other. Oklahoma is almost wholly agricultural, while the Indian Territory is richly endowed with mineral wealth, and the combination will make a state of unsurpassed variety and abundance of natural resources.

"Third. Single statehood insures larger taxable values and consequently lower taxation.

"Fourth. Single statehood eliminates a crooked, wandering and fantastic boundary line, which now divides the two territories.

"Fifth. Single statehood confirms and cements a social fellowship already established by inter-territorial organizations of the Methodist Episcopal Church South, the Methodist Episcopal Church, the Episcopal Church, the Presbyterian Church, the Federation of Woman's Clubs, the Masonic and other fraternities.

"Sixth. Single statehood confirms and cements a business fellowship already established by inter-territorial organizations of the cotton-seed oil manufacturers, the lumber dealers, the ice manufacturers, the grain dealers, the flour manufacturers and other business organizations.

"Seventh. Single statehood, finally, insures a state which will take high rank in this Union, and which we can bequeath to our posterity with pride and satisfaction."

As to the unsettled condition of Indian affairs in Indian Territory interfering with immediate joint statehood, the convention expressed itself as follows:

"The work of the Dawes Commission has been so nearly completed as to no longer interfere with immediate statehood; that commission has concluded treaties with all the Indian tribes, providing for the allotment in severalty of their lands, and authorizing the sale of all except the homestead. These allotments will probably be completed by the time a state government can be organized. The lands of the Creek and Seminole nations have all been allotted. In the Cherokee, Choctaw and Chickasaw nations the lands have all been surveyed and classified, and the work of allotment is now simply clerical and should be completed within twelve months. . . . . It therefore is beyond controversy that the work of the Dawes Commission no longer interferes with statehood, and that there is abundance of taxable property.

"Congress can reserve such power over Indian affairs as it desires, and statehood will in no way interfere with the free action of the interior department in carrying out all the treaties between the government and the several tribes."

During the first session of the fifty-seventh Congress, in 1901-02, the house committee on the territories had under consideration nine bills providing for the creation of states. There was an enabling act for New Mexico alone, one for Oklahoma alone, one for Arizona alone, one "to authorize single statehood for Oklahoma and Indian territories as the state of Oklahoma"; a similar bill for the "union of Oklahoma Territory and Indian Territory"; another giving statehood to Oklahoma alone, and finally the bill (H. R. 12543) "to enable the people of Oklahoma, Arizona and New Mexico to form constitutions and state governments and be admitted into the Union," which Mr. Knox, on April 1, 1902, reported with a recommendation that it pass. In the third section of the last-named bill it was provided that the constitutional convention should, "by an irrevocable ordinance," express the consent of the state of Oklahoma that Congress might at any time, or from time to time, attach all or any part of the Indian Territory to the state of Oklahoma.

A senate bill, with similar provisions to

those just mentioned, had been introduced during this session by Senator Quay. The house bill having been passed, no opposition was expected to the measure, there being a combination of Republicans under Quay's leadership and practically all the Democrats, sufficiently strong to pass the bill when it came to vote. The bill was referred to the committee on the territories, of which Senator Quay was a member. The chairman of the committee was Albert J. Beveridge, of Indiana. Up to this time he had taken little part in the movement for statehood. But during the examination of the bill in committee he suddenly manifested extreme interest in the matter, and, instead of the bill receiving a perfunctory consideration and a favorable report to the senate, the young senator's inquiries had probed so deeply into the interests supporting the measure that he refused to report it out of committee. From that time on Beveridge was the stumbling block of the "omnibus bill." He swayed the majority of the committee and, despite all that the astute Quay could do, the bill remained with the committee. It developed during the committee's hearing, so it is alleged, that certain railroad and corporation influences were backing the design to bring Arizona and New Mexico into the Union, and that it was not altogether a popular movement in the territories concerned. But just what the reasons were that caused Senator Beveridge's opposition are not important to this discussion. The essential fact is that he held the bill in committee, against all the influences brought to bear upon him. On June 23, 1902, Senator Quay moved in open senate to discharge the committee, which would have brought the bill before the whole senate, where he had a majority to insure its passage. The vote on his motion resulted in a tie, and adjournment of Congress being at hand, it was finally agreed that the bill should be reported on the following December 10, and be considered in the senate as unfinished business until disposed of. This was apparently a victory for Quay, since there was little doubt that he could hold his organization together until the reassembling of Congress.

Before adjournment Senator Beveridge secured the passage of a resolution that a sub-committee of the committee on territories should visit the territories during the congressional recess, and on the evidence obtained base a report as to the preparedness of the territories for statehood. This sub-committee, consisting of Senators Beveridge, Dillingham, Burnham and Heitfeld, reached New Mexico about the middle of November, and during the following three weeks journeyed rapidly over the four territories, holding hearings in the principal towns or in their car as they sped along. Much criticism was directed against the superficial character of their examination and the haste with which the "junketing party" hurried over the vast area of the four territories. The senators stopped at only three or four towns in Oklahoma and Indian Territory, barely three hours being devoted to the examination of witnesses in Oklahoma City. None the less, the committee gathered a voluminous amount of information from representative citizens in all the territories, and when printed it became the basis for the subsequent action of Congress.

Mr. Beveridge, for the committee on territories, on December 3, 1902, reported back the house bill 12543 (the omnibus measure) with an amendment striking out all after the enacting clause and inserting instead a bill for the admission of Oklahoma and Indian Territory as a single

state, entirely ignoring New Mexico and Arizona. On December 10 a report was submitted by Mr. Beveridge supporting this action. At the same time Senator Quay presented an individual report in dissent from the views of the majority of the committee, his arguments being summed up in the concluding sentences of his report, as follows: "For the reasons, therefore, that the Republican party in 1900 promised statehood to the territories of Arizona, New Mexico and Oklahoma, while no such pledge or promise was made in the national convention for the Indian Territory, which is not now fit for statehood, and that these territories compare favorably in number and character of population, as well as in resources and territorial extent, with nearly all of the states admitted to the Union for many years past, and, in accordance with the precedents of our history, I recommend that house bill No. 12543 be passed without amendment." On December 15 a minority report, presented by Senator Bate, was submitted, following substantially the views of Mr. Quay.

The substance of the Beveridge, or majority, report deserves a place in this history. After presenting the reasons of the majority of the committee for opposing the entrance to the Union of Arizona and New Mexico, it calls attention in striking contrast to "the preparedness of Oklahoma and Indian Territory," the great body of the former territory being magnificently developed, while the less than 87,000 Indians in the latter were being rapidly brought into a condition for absorption "in the body of our homogeneous citizenship." But the proposition to admit Oklahoma territory as a single state was not tenable. "Its size is much below that of any western state. . . . Its boundaries are unscientific, accidental and grotesque. And, above all, the committee are convinced that a majority of its people are opposed to statehood at present except by a union with its natural complement, the Indian Territory." Attention is called to the union of the territories by nature, commerce and "all human conditions." As to the exemption of Indian lands from taxation and consequent burdens placed upon the Oklahoma side, it is argued that in two or three years at most Indian Territory could bear a proportionate share of public taxation, and that the inequity complained of was comparatively insignificant. As to the arguments advanced by opponents of statehood that the citizens of Oklahoma are highly prosperous in their territorial condition, and that under a state government they might be subjected to burdensome taxation and reckless obligations in behalf of railroads and other improvements, the committee admits the force of such reasoning. But, it concludes, "it seems to the committee that these two territories should be admitted to the Union as a single state. They have reached their manhood and should take on manhood's responsibilities. They do not need incorporation into the active political nation more than the active political nation needs them."

In November, 1902, the matter of joint or double statehood was an issue in the Oklahoma territorial election. The Democratic platform declared specifically for single, meaning joint, statehood. The Republican platform endorsed the Flynn bill, granting statehood to Oklahoma and giving Congress power to attach Indian Territory at some future time. The Republican candidate (McGuire) construed this as a single statehood declaration, and contended that it was the speedier way of procuring statehood. Notwithstanding this construction, the single statehood sentiment

reduced the Republican plurality from 4,724 to 384.

With the reporting of the "omnibus bill" to the senate, accompanied by the recommendations of the majority and the minority in the territorial committee, the contest which had begun during the previous session within the committee room was transferred to the more conspicuous stage of the open senate. There, during the following three months, was enacted one of the most prolonged "filibusters" in the history of our national legislature. Senator Quay with about a dozen Republican adherents was united with the Democratic minority in support of the bill. Opposed to them were Senator Beveridge and most of the Republican members, with several Democratic senators. Should the bill come to a vote, its supporters possessed enough strength to pass it. But by the ancient right of "senatorial courtesy" and the freedom of unlimited debate, the opponents of the bill could delay the vote as long as they could talk, and Senator Beveridge determined to "talk the bill to death."

The filibuster against the statehood bill was thus described by a Washington correspondent (January 12, 1903):

"The debate on the statehood bill has now been running three weeks, and according to Senator Beveridge has just begun. He says that thirty-one senators expect to speak. Senator Nelson, of Minnesota, has been speaking for five days in succession in a dreary monotone to empty benches. The only members of the senate who have listened to him have been Senator Quay, representing one side, and Senator Beveridge, representing the other side of the controversy, and they have been relieved from time to time by some other colleagues because it is necessary to keep a sentinel on guard. From 2 to 5 o'clock daily Senator Nelson continues to read from the testimony taken by the subcommittee on territories which investigated the subject; from arguments submitted for the admission of Oklahoma and Indian Territory and against the admission of New Mexico and Arizona; from books, newspapers, magazines and other miscellaneous literature bearing on the subject, and he calls it a speech.

"When he is tired out, Senator Burnham or Senator Dillingham will take the job, and Mr. Bard, of California, is loaded with material and can take the floor at any time it is necessary. Senator Nelson is not to blame, however, for his part in this tiresome farce. He has been selected by the committee on territories to filibuster against the passage of the statehood bill by killing time, and the other senators named have engaged in the same ignoble conspiracy.

"Why? If they should stop speaking Senator Quay would demand a vote, and he has the majority of the senate behind him in favor of the bill admitting New Mexico and Arizona. He has announced that he will permit no other legislation except the regular appropriation bills to be considered until the statehood bill is disposed of."

The deadlock went on for weeks. The short session was nearing an end, important legislation was pressing for attention, the president threatened to call an extra session after March 4th, but Quay and his lieutenants remained obdurate. On January 21st Senator Quay had an opportunity to display his strength. While the statehood debate was in progress, a motion was made to go into executive session to consider Cuban reciprocity. It was recognized as a test of the forces aligned for and against the omnibus measure. Senator

Quay permitted the vote to be taken, a roll call being demanded, and the motion lost, eleven Republican senators joining Quay and his almost solid Democratic support to defeat the motion.

Other expedients were adopted by the shrewd Pennsylvania senator. The "omnibus" bill was attached in committee as a "rider" to the postoffice and agriculture appropriation bills, which, being urgent measures, it was believed might overcome the filibuster. Later Quay joined with Senator Morgan, the aged but persistent opponent of the Panama canal, and thus started another filibuster, hoping his pet measure might profit thereby.

But in the last days of the session the Quay organization showed signs of disintegrating. A compromise, on the basis of two states being formed from the territories instead of four, was acceptable to Mr. Quay, but not to the Democratic senators, who continued their efforts for four states. As the close of the session approached it became evident that a vote on the bill could not be reached, and that the omnibus "riders" might endanger the passage of the appropriation bills. They were therefore withdrawn by Mr. Quay, and the regular business of the senate resumed.

The filibuster had accomplished its purpose, and one of the most dramatic chapters in the history of the United States senate closed, without the cause of Oklahoma statehood having been advanced beyond the stage of partisan politics and unlimited discussion.

The fifty-seventh Congress expired on March 4, 1903, and the "omnibus bill" died with it. In the fifty-eighth Congress, which convened in December, 1903, and held over till March, 1905, no substantial progress was effected. Following the lines of the enabling legislation proposed by the Beveridge committee in the preceding Congress, a bill was introduced in the house by Congressman Hamilton, providing for the union of the adjacent territories and the creation of the two new states of Oklahoma and Arizona. The bill passed the house, but was defeated in the senate, largely by the combination which had previously supported the "omnibus bill." (Senator Quay had died in the meantime.) In the closing days of the fifty-eighth Congress, while the senate had under consideration the house bill (14,749) to enable the four territories to enter the union as two states, Senator Beveridge in his speech closing the debate said, as to the change of sentiment regarding statehood with the last two years:

"Two years ago the majority of the committee on territories brought into the senate as a substitute for the then pending measure a bill uniting Indian Territory and Oklahoma. At the time that thought was presented it found chill reception in this body. It was resisted by most of the politicians both in the Indian Territory and in Oklahoma, and the country received it with indifference. Two years have passed. Nothing has been done in its behalf. No propaganda has been conducted to further that idea. It has depended only upon its own vitality. But the idea was lodged in the minds of the people of those two territories, and it has grown until it has formed an irresistible power, so that the people of these territories themselves today are a unit upon this question, and the politicians there, in obedience to the universal public demand, have also agreed upon it.

"Not only that, but the idea of single statehood captured the country, and I hold here in my hand editorials from papers all over this nation advocating this course, regardless of party. In addition, the idea has grown until in this body itself it receives almost the overwhelming approval of senators. And now we are to have a single magnificent state made by the re-

union of these two territories, a commonwealth unsurpassed in the Republic in generous resources, delightful climate, and a splendid citizenship—for such is the greater Oklahoma for which this bill provides and the only Oklahoma that is possible to be made a state."

It is now necessary to turn from Washington to the situation in Oklahoma and Indian Territory. On July 12, 1905, a statehood convention, made up of five hundred delegates from the Indian Territory and an equal number from Oklahoma territory, assembled at Oklahoma City. They declared in resolutions that they had but one petition to make to Congress, and that was "that immediate joint statehood be granted to Oklahoma and Indian territories, on their own merits, and without reference to any right or claim of other territories seeking admission to the American Union."

Almost at the same time that the joint statehood convention was passing resolutions for a single state at Oklahoma City, in July, 1905, a call for a separate statehood convention had been sent out by some of the principal chiefs and prominent Indians of the Indian Territory. It was held that in view of the passing of the tribal system of government with the following 4th of March, that immediate measures were necessary to provide for a government of the Indian country. Therefore a constitutional convention was called to convene at Muskogee on August 21, 1905, for the purpose of drafting a constitution and selecting a capital and name for the new state. The first call was signed by only two chiefs, but was later somewhat modified and signed by representatives of all the five nations.[4] At this convention, which met in Muskogee, August 21st, 182 delegates were entitled to seats, though only 150 were actually present. D. C. McCurtain was temporary chairman, and the regular organization was presided over by Pleasant Porter, with C. N. Haskell as vice-president, and Alexander Posey secretary. After the organization had been completed and all committees appointed, the convention was given a recess until September 5th, when the work of the constitutional committee was reported and revised. The convention laid out its work in a methodical manner, and labored industriously for several weeks, and after de-

[4] We, the chief executives of the Cherokee, Choctaw, Seminole and Creek nations, have in conference agreed to carry out the call for a constitutional convention made by the principal chief of the Choctaw nation and the principal chief of the Cherokee nation, for August 21, 1905, as being adequate and binding upon all the nations under their compact to convene at the call of the chief executives of the nation wherein the recording town is located. The original call for this convention is hereby modified and extended as follows:

On or before the 5th day of August each chief executive in jurisdiction as above specified will designate such persons as he deems proper to act as presiding officer of said mass meeting for the selection of such delegates and alternates.

If, for any reason, such presiding officer should not appear and preside, then the meeting is authorized to fill the vacancy. A list of the delegates and alternates selected at such meetings shall at once be certified by the chairman to the chief executives of such nations and such certificates thereupon being endorsed by said chief executives shall constitute credentials necessary to entitle such delegates and alternates to membership in the constitutional convention to be held August 21, 1905. The convention when assembled shall have full power to direct its subsequent proceedings.

W. C. Rogers,
Prin. Chief Cherokee Nation.
Green McCurtain,
Prin. Chief Choctaw Nation.
P. Porter,
Prin. Chief Creek Nation.
J. F. Brown,
Prin. Chief Seminole Nation.
Geo. W. Scott,
Secretary, Kinta.

bating the provisions of the constitution in full convention, adopted what has been known as "the Sequoyah constitution," the name of the famous Cherokee having been proposed for the new state. The convention nominated four members (two Republicans and two Democrats) to go to Washington and work for the admission of the state of Sequoyah under its proposed constitution; it declared in favor of statehood for Indian Territory separate from Oklahoma, and submitted the whole to the people of Indian Territory to be voted on, November 7, 1905—the first general election ever held in the Indian Territory. Many people, while opposing separate statehood for Indian Territory, were convinced that the results of the Sequoyah convention would be beneficial. Hitherto, in a political sense, the position of Indian Territory had been anomalous, without power of concerted expression or action in political matters. It was feared by many that Indian Territory, if joined to Oklahoma in a single state, would be a mere tool in the hands of the more experienced political leaders from the western side, and that the Oklahoma clique would dominate affairs greatly to the neglect and injury of Indian Territory. But the action of the people of Indian Territory at Muskogee furnished a powerful argument in demonstrating their fitness for statehood, whether separate or joint statehood. The convention had taken a step toward statehood far in advance of anything done or attempted by the people of Oklahoma; and, as was asserted at the time, "if these people must go into a constitutional convention with Oklahoma, they have demonstrated their right to demand equal terms with her." "Indian Territory," to quote an article written at the time, "with a population equal to that of Oklahoma, is vastly richer in resources, of which many—notably oil, gas, coal and asphalt—are being turned into commercial channels to the extent of many millions annually. It contains unknown wealth of granite and marble, lead, zinc and other minerals; its agricultural output and its taxable property are both greater than those of Oklahoma. The people of Indian Territory revolt at the idea of uniting in statehood with a community which may levy tribute upon their vast wealth of resources for the maintenance of state institutions where they are now located in Oklahoma."

The campaign that preceded the vote upon the constitution served to educate the people to the importance of the statehood movement. The matter was complicated by partisan politics, and by the joint statehood issue, and perhaps the chief result, as viewed from the present, was the union of the political leaders of the Indian Territory in an efficient working organization which, when the enabling act finally passed, became a powerful factor in the politics of the new state. The campaign before the election was thus described by a writer in the *Outlook*, in March, 1906: "The opposition both in Indian Territory and Oklahoma answered that it [the separate statehood movement] was an appeal to sentiment; that the administration is opposed to the policy; that Congress will not admit two states made out of the two territories, and that there is no use contending for it; and through the newspapers, of which the opposition controls a majority in Indian Territory, it reproduced numerous interviews and letters of senators and congressmen committing themselves in advance of the meeting of Congress, to joint statehood and discouraging the separate statehood idea; and it employed every possible argument to persuade the voters to stay away

from the polls on November 7.[5] Yet the result of the election that day, as announced by the election board upon the sworn returns of the election judges, was 56,279 votes for separate statehood and the constitution, and 9,073 votes against. Without election machinery, without rival candidates to stimulate voters, and with no revenues to defray the expenses of such an election, a total vote of 65,352 votes cast is significant of a deep interest in the question by the people of Indian Territory."

In the final solution of the statehood question, after politics and public and private interests had caused a vacillation continuing for years between the advocacy of separate statehood and of joint statehood, Congress settled the matter not so much in deference to the wishes of the territories concerned, but in consideration of the national rights and interests involved. The conviction had been gaining ground in the country at large that the question whether any territory shall be admitted as a state and how it shall be admitted was one to be determined primarily by the nation, not primarily by the people of the territory; that Congress had both a constitutional and a moral right to determine whether such a territory should be divided into two or more states, or whether two or more territories should be united as one state. In the closing arguments on the statehood bill as it finally passed, Senator Beveridge, referring to this aspect of the question, said: "The senator from Colorado says, as though it were a noteworthy fact, that the idea of joint statehood did not originate with the people of either territory. Why should it? Statehood is not a question to be settled by the people of the territories alone; it is a question for the nation to settle. It is not a local matter only; it is a national matter. It is not merely a temporary arrangement for the benefit alone of the people living in these territories; it is a permanent arrangement which fixes their relation and that of their posterity to all the multiplying millions who shall live in this Republic till the end of time."

At the opening of the first session of the fifth-ninth Congress, in December, 1905, the solution of the statehood question, so far as the public opinion of the country at large and the action of Congress were concerned, had been determined. In his message President Roosevelt said:

"I recommend that Indian Territory and Oklahoma be admitted as one state, and that New Mexico and Arizona be admitted

[5] The Sequoyah movement was the subject of the following criticism from Delegate McGuire in a speech in the house, in January, 1906, during the progress of the final debates on the omnibus statehood bill: "There has been urged against this statehood bill as a reason why it should not become a law, that the people of Oklahoma and the people of Indian Territory desire another form of statehood. There has been something said about the state of Sequoyah, and an election recently held for the purpose of adopting a constitution for the proposed state of Sequoyah, including the Indian Territory and nothing more. The real purpose of the convention which resulted in this movement, and the effort for the state of Sequoyah, in my judgment, was not altogether sincere. There is a strong element in the Indian Territory, and a most dangerous element, too, to civilized tendencies, so far as the Indian is concerned, which is most strenuously opposed to any kind of statehood, whether it be single or double, whether it be statehood for Oklahoma or the Indian Territory. Sometimes the tactics pursued by these people are one thing, and sometimes another. First they contend that the Indian of the Indian Territory is not prepared for statehood; not sufficiently civilized to cope in business and other matters with his white neighbor. Other times they call a convention and inaugurate the Sequoyah movement, or some other movement, the real purpose of which is not to assist the Indian Territory to statehood, but to throw every possible impediment and obstruction in the way of statehood of any kind or character."

as one state. There is no obligation upon us to treat territorial subdivisions, which are matters of convention only, as binding us in the question of admission to statehood. Nothing has taken up more time in the Congress during the past few years than the question as to the statehood to be granted to the four territories above mentioned, and, after careful consideration of all that has been developed in the discussion of the question, I recommend that they be immediately admitted as two states. There is no justification for further delay, and the advisability of making four territories into two states has been clearly established."

It was in accordance with this recommendation that Congress acted. No substantial opposition was directed against the proposal to unite Oklahoma and Indian Territory, but the disposition of the four territories being still considered together, the hostility of the powerful lobby that had fought for double statehood in the case of Arizona and New Mexico in the fifty-seventh Congress still threatened to thwart the joint-state bill in this Congress. Rather than have Arizona and New Mexico joined as one state, those interests preferred the territorial condition for both. Finally a compromise was effected. The people of New Mexico and Arizona were to be permitted to enter the Union as one state provided that, when the enabling act was submitted for ratification, each territory should vote separately, and a majority of votes in favor of the measure should be required in both territories to secure its ratification. This proviso resulted as its supporters had planned. New Mexico gave a majority for statehood, while Arizona's vote was against it, and as a result statehood for those two territories has been delayed indefinitely.

The enabling act as finally passed received the approval of the president on June 16, 1906. After years of contest and argument, involving many interests aside from those directly concerned, and in the course of which many notable figures in the Nation's history had acted their parts, Congress had performed its duty to Oklahoma, and the center of action and interest was transferred to the seat of the civilization that had sprung up on the lands once dedicated to the Indian races.

By the terms of the enabling act, the qualified voters of Indian Territory and Oklahoma were to vote for the acceptance or rejection of the act on the date of the general election (November 6, 1906).

The enabling act, under which the two territories proceeded to form a state constitution and government, being the basis of statehood and second in importance only to the state constitution, is given here entire, except its provisions as to New Mexico and Arizona.

OKLAHOMA ENABLING ACT.

An Act To enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the Territory of Oklahoma and the Indian Territory, as at present described, may adopt a constitution and become the State of Oklahoma, as hereinafter provided: ***Provided,*** That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law or otherwise, which it would have been competent to make if this Act had never been passed.

SEC. 2. That all male persons over the age of twenty-one years, who are citizens of the United States, or who are members of any Indian nation or tribe in said Indian Territory and Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hereby authorized to vote for and choose delegates to form a constitutional convention for said proposed State; and all persons qualified to vote for said delegates shall be eligible to serve as delegates; and the delegates to form such convention shall be one hundred and twelve in number, fifty-five of whom shall be elected by the people of the Territory of Oklahoma, and fifty-five by the people of Indian Territory, and two shall be elected by the electors residing in the Osage Indian Reservation in the Territory of Oklahoma; and the governor, the chief justice, and the secretary of the Territory of Oklahoma shall apportion the Territory of Oklahoma into fifty-six districts, as nearly equal in population as may be, except that such apportionment shall include as one district the Osage Indian Reservation, and the governor, the chief justice, and the secretary of the Territory of Oklahoma shall appoint an election commissioner who shall establish voting precincts in said Osage Indian Reservation, and shall appoint the judges for election in said Osage Indian Reservation; and two delegates shall be elected from said Osage district; and the Commissioner to the Five Civilized Tribes, and two judges of the United States courts for the Indian Territory, to be designated by the President, shall constitute a board, which shall apportion the said Indian Territory into fifty-five districts, as nearly equal in population as may be, and one delegate shall be elected from each of said districts; and the governor of said Oklahoma Territory, together with the judge senior in service of the United States courts in Indian Territory, shall, by proclamation in which such apportionment shall be fully specified and announced, order an election of the delegates aforesaid in said proposed State at a time designated by them within six months after the approval of this act, which proclamation shall be issued at least sixty days prior to the time of holding said election of delegates. The election for delegates in the Territory of Oklahoma and in said Indian Territory shall be conducted, the returns made, the result ascertained, and the certificates of all persons elected to such convention issued in the same manner as is prescribed by the laws of the Territory of Oklahoma regulating elections for Delegates to Congress. That the election laws of the Territory of Oklahoma now in force, as far as applicable and not in conflict with this Act, including the penal laws of said Territory of Oklahoma relating to elections and illegal voting, are hereby extended to and put in force in said Indian Territory until the legislature of said proposed State shall otherwise provide, and until all persons offending against said laws in the election aforesaid shall have been dealt with in the manner therein provided. And the United States courts of said Indian Territory shall have the same power to enforce the laws of the Territory of Oklahoma, hereby extended to and put in force in said Territory, as have the courts of the Territory of Oklahoma: *Provided, however*, That said board to apportion districts in Indian Territory shall, for the purpose of said election, appoint an election commissioner for each district who shall distribute all ballots and election supplies to the several precincts in his district, receive the election returns from the judges in precincts, and deliver the same to the canvassing board herein named, establish and define the necessary election precincts, and appoint three judges of election for each precinct, not more than two of whom shall be of the same political party, which judges may appoint the necessary clerk or clerks; that said judges of election, so appointed, shall supervise the election in their respective precincts, and canvass and make due return of the vote cast, to the election commissioner for said district who shall deliver said returns, poll books, and ballots to said board, which shall constitute the ultimate and final canvassing board of said election, and they shall issue certificates of election to all persons elected to such convention from the various districts of the Indian Territory, and their certificates of election shall be prima facie evidence as to the election of delegates: *Provided further*, That in said Indian Territory and Osage Indian Reservation, nominations for delegate to said constitutional convention may be made by convention, by the Republican, Democratic, and People's Party, or by petition in the manner provided by the laws of the Territory of Oklahoma; and certificates and petitions of nomination in said Indian Territory shall be filed with the districting and canvassing board who shall perform the duties of election commissioner under said law, and shall prepare, print, and distribute all ballots, poll books, and election supplies necessary for the holding of said election under said laws. The capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma and shall not be changed therefrom previous to anno Domini nineteen hundred and thirteen, but said capital shall, after said year, be located by the electors of said State at an election to be provided for by the legislature: *Provided, however*, That the legislature of said State, except as shall be necessary for the convenient transaction of the public business of said State at said capital, shall not appro-

priate any public moneys of the State for the election of buildings for capitol purposes during such period.

SEC. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Oklahoma Territory on the second Tuesday after their election, excluding the day of election in case such day shall be Tuesday, but they shall not receive compensation for more than sixty days of service, and, after organization, shall declare, on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall, and is hereby authorized to, form a constitution and State government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide in said constitution—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that polygamous or plural marriages are forever prohibited.

Second. That the manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within those parts of said State now known as the Indian Territory and the Osage Indian Reservation and within any other parts of said State which existed as Indian reservations on the first day of January, nineteen hundred and six, is prohibited for a period of twenty-one years from the date of the admission of said State into the Union, and thereafter until the people of said State shall otherwise provide by amendment of said constitution and proper State legislation. Any person, individual or corporate, who shall manufacture, sell, barter, give away, or otherwise furnish any intoxicating liquor of any kind, including beer, ale, and wine, contrary to the provisions of this section, or who shall, within the above-described portions of said State, advertise for sale or solicit the purchase of any such liquors, or who shall ship or in any way convey such liquors from other parts of said State into the portions hereinbefore described, shall be punished, on conviction thereof, by fine not less than fifty dollars and by imprisonment not less than thirty days for each offense: *Provided*, That the legislature may provide by law for one agency under the supervision of said State in each incorporated town of not less than two thousand population in the portions of said State hereinbefore described; and if there be no incorporated town of two thousand population in any county in said portions of said State, such county shall be entitled to have one such agency, for the sale of such liquors for medicinal purposes; and for the sale, for industrial purposes, of alcohol which shall have been denaturized by some process approved by the United States Commissioner of Internal Revenue; and for the sale of alcohol for scientific purposes to such scientific institution, universities, and colleges as are authorized to procure the same free of tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in a sum not less than one thousand dollars, conditioned that none of such liquors shall be used or disposed of for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States, and the payment of such special tax by any person within the parts of said State hereinabove defined shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is to be used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regular practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered, and the register thereof, together with the affidavits and the prescriptions pertaining thereto, shall be open to inspection by any officer or citizen of said State at all times during business hours. Any person who shall knowingly make a false affidavit for the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for treatment of disease which after his own personal diagnosis he shall deem to require such treatment, shall, upon conviction thereof, be punished for each offense by fine of not less than two hundred dollars or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency who shall be convicted of making any sale or other disposition of liquor contrary to these provisions shall be punished by imprisonment for not less than one year and one day. Upon the admission of said State into the Union these provisions shall be immediately enforceable in the courts of said State.

Third. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that

until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. That land belonging to citizens of the United States residing without the limits of said State shall never be taxed at a higher rate than the land belonging to residents thereof; that no taxes shall be imposed by the State on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use.

Fourth. That the debts and liabilities of said Territory of Oklahoma shall be assumed and paid by said State.

Fifth. That provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control; and said schools shall always be conducted in English: *Provided*, That nothing herein shall preclude the teaching of other languages in said public schools: *And provided further*, That this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children.

Sixth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

SEC. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this Act the convention forming the same shall provide by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection at an election to be held at a time fixed in said ordinance, at which election the qualified voters for said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The returns of said election shall be made to the secretary of the Territory of Oklahoma, who, with the chief justice thereof and the senior judge of the United States court of appeals for the Indian Territory, shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the governor of Oklahoma Territory and the judge senior in service of the United States court of appeals for the Indian Territory shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and if the provisions in this Act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of votes cast thereon and a copy of said constitution, articles, propositions, and ordinances, to issue his proclamation announcing the result of said election; and thereupon the proposed State of Oklahoma shall be deemed admitted by Congress into the Union, under and by virtue of this Act, on an equal footing with the original States. The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election, shall be forwarded and turned over by the secretary of the Territory of Oklahoma to the State authorities of said State.

SEC. 5. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the defraying of the expenses of the elections provided for in this Act, and said convention, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislature of the Territory of Oklahoma, and the disbursements of the money appropriated by this section shall be made by the secretary of the Territory of Oklahoma.

SEC. 6. That until the next general census, or until otherwise provided by law, the said State of Oklahoma shall be entitled to five Representatives in the House of Representatives of the United States, to be elected from the following-described districts, the boundaries of which shall remain the same until the next general census:

That district numbered one shall comprise the counties of Grant, Kay, Garfield, Noble, Pawnee, Kingfisher, Logan, Payne, Lincoln, and the territory comprising the Osage and Kansas Indian reservations.

That district numbered two shall comprise the counties of Oklahoma, Canadian, Blaine, Caddo, Custer, Dewey, Day, Woods, Woodward, and Beaver.

That district numbered three shall (with the exception of that part of recording district numbered twelve, which is in the Cherokee and Creek nations) comprise all the territory now constituting the Cherokee, Creek, and Seminole nations, and the Indian reservations lying northeast of the Cherokee Nation, within said State.

That district numbered four shall comprise all that territory now constituting the Choctaw Nation, that part of recording district numbered twelve which is in the Cherokee and Creek nations, that part of recording district numbered twenty-five which is in the Chickasaw Nation, and the territory comprising recording districts numbered sixteen, twenty-one, twenty-two, and twenty-six, in the Indian Territory.

That district numbered five shall comprise the counties of Greer, Roger Mills, Kiowa, Washita, Comanche, Cleveland, and Pottawatomie, and the territory comprising recording districts numbered seventeen, eighteen, nineteen, and twenty, in the Chickasaw Nation, Indian Territory.

And the said Representatives, together with the governor and other officers provided for in said constitution, shall be elected on the same day of the election for the ratification or rejection of the constitution; and until said officers are elected and qualified under the provisions of such constitution and the said State is admitted into the Union, the Territorial officers of Oklahoma Territory shall continue to discharge the duties of their respective offices in said Territory.

SEC. 7. That upon the admission of the State into the Union sections numbered sixteen and thirty-six, in every township in Oklahoma Territory, and all indemnity lands heretofore selected in lieu thereof, are hereby granted to the State for the use and benefit of the common schools: *Provided*, That sections sixteen and thirty-six embraced in permanent reservations for national purposes shall not at any time be subject to the grant nor the indemnity provisions of this Act, nor shall any lands embraced in Indian, military, or other reservations of any character, nor shall land owned by Indian tribes or individual members of any tribe be subjected to the grants or to the indemnity provisions of this Act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain: *Provided*, That there is sufficient untaken public land within said State to cover this grant: *And provided*, That in case any of the lands herein granted to the State of Oklahoma have heretofore been confirmed to the Territory of Oklahoma for the purposes specified in this Act, the amount so confirmed shall be deducted from the quantity specified in this Act.

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of five million dollars for the use and benefit of the common schools of said State in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid, but said State shall be allowed interest thereon at the rate of three per centum per annum, which shall be paid to said State for the use and benefit of its public schools. Said appropriation of five million dollars shall be held and invested by said State, in trust, for the use and benefit of said schools, and the interest thereon shall be used exclusively in the support and maintenance of said schools: *Provided*, That nothing in this Act contained shall repeal or affect any Act of Congress relating to the Sulphur Springs Reservation as now defined or as may be hereafter defined or extended, or the power of the United States over it or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archæological or ethnological interest; and nothing contained in this Act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as a national park, game preserve, or other reservation, or in the said Sulphur Springs Reservation, as it now is or may be hereafter defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Sulphur Springs Reservation or national parks, game preserves, and other reservations hereafter established by law, of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation or the said Sulphur Springs Reservation, as now defined or may be hereafter defined.

SEC. 8. That section thirteen in the Cherokee Outlet, the Tonkawa Indian Reservation, and the Pawnee Indian Reservation, reserved by the President of the United States by proclamation issued August nineteenth, eighteen hundred and ninety-three, opening to settlement the said lands, and by any Act or Acts of Congress since said date, and section thirteen in all other lands which have been or may be opened to settlement in the Territory of Oklahoma, and all lands heretofore selected in lieu thereof, is hereby reserved and granted to said State for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established or hereafter to be established, one-third; and of the Agricultural and Mechanical College and the Colored Agricultural Normal University, one-third. The said lands or the proceeds thereof as above apportioned shall be divided between the institutions as the legislature of said State may prescribe: *Provided*, That the said lands so reserved or the proceeds of the sale thereof shall be safely kept or invested and held by said State, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such

educational institutions shall remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university.

That section thirty-three, and all lands heretofore selected in lieu thereof, heretofore reserved under said proclamation, and Acts for charitable and penal institutions and public buildings, shall be apportioned and disposed of as the legislature of said State may prescribe.

Where any part of the lands granted by this Act to the State of Oklahoma are valuable for minerals, which terms shall also include gas and oil, such lands shall not be sold by the said State prior to January first, nineteen hundred and fifteen; but the same may be leased for periods not exceeding five years by the State officers duly authorized for that purpose, such leasing to be made by public competition after not less than thirty days' advertisement in the manner to be prescribed by law, and all such leasing shall be done under sealed bids and awarded to the highest responsible bidder. The leasing shall require and the advertisement shall specify in each case a fixed royalty to be paid by the successful bidder, in addition to any bonus offered for the lease, and all proceeds from leases shall be covered into the fund to which they shall properly belong, and no transfer or assignment of any lease shall be valid or confer any right in the assignee without the consent of the proper State authorities in writing: *Provided, however,* That agricultural lessees in possession of such lands shall be reimbursed by the mining lessees for all damage done to said agricultural lessees' interest therein by reason of such mining operations. The legislature of the State may prescribe additional legislation governing such leases not in conflict herewith.

SEC. 9. That said sections sixteen and thirty-six, and lands taken in lieu thereof, herein granted for the support of the common schools, if sold, may be appraised and sold at public sale in one hundred and sixty acre tracts or less, under such rules and regulations as the legislature of the said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of such schools. But said lands may, under such regulations as the legislature may prescribe, be leased for periods not to exceed ten years; and such lands shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 10. That said sections thirteen and thirty-three, aforesaid, if sold, may be appraised and sold at public sale, in one hundred and sixty acre tracts or less, under such rules and regulations as the legislature of said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, but such lands may be leased for periods of not more than five years, under such rules and regulations as the legislature shall prescribe, and until such time as the legislature shall prescribe such rules these and all other lands granted to the State shall be leased under existing rules and regulations, and shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for designated purposes only, and until such time as the legislature shall prescribe as aforesaid such lands shall be leased under existing rules: *Provided,* That before any of the said lands shall be sold, as provided in sections nine and ten of this Act, the said lands and the improvements thereon shall be appraised by three disinterested appraisers, who shall be nonresidents of the county wherein the land is situated, to be designated as the legislature of said State shall prescribe, and the said appraisers shall make a true appraisement of said lands at the actual cash value thereof, exclusive of improvements, and shall separately appraise all permanent improvements thereon at their fair and reasonable value, and in case the lease-holder does not become the purchaser, the purchaser at said sale shall, under such rules and regulations as the legislature may prescribe, pay to or for the leaseholder the appraised value of said improvements, and to the State the amount bid for the said lands, exclusive of the appraised value of improvements; and at said sale no bid for any tract at less than the appraisement thereof shall be accepted.

SEC. 11. That an amount equal to five per centum of the proceeds of the sales of public lands lying within said State shall be paid to the said State, to be used as a permanent fund, the interest only of which shall be expended for the support of the common schools within said State.

SEC. 12. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the Act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand of the State of Oklahoma under the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands, which grant it is hereby declared is not extended to said State of Oklahoma, the following grant of land is hereby made to said State

from public lands of the United States within said State, for the purposes indicated, namely: For the benefit of the Oklahoma University, two hundred and fifty thousand acres; for the benefit of the University Preparatory School, one hundred and fifty thousand acres; for the benefit of the Agricultural and Mechanical College, two hundred and fifty thousand acres; for the benefit of the Colored Agricultural and Normal University, one hundred thousand acres; for the benefit of normal schools, now established or hereafter to be established, three hundred thousand acres. The lands granted by this section shall be selected by the board for leasing school lands of the Territory of Oklahoma immediately upon the approval of this Act. Said selections as soon as made shall be certified to the Secretary of the Interior, and the lands so selected shall be thereupon withdrawn from homestead entry.

SEC. 13. That said State when admitted as aforesaid shall constitute two judicial districts, to be known as the eastern district of Oklahoma and the western district of Oklahoma; the said Indian Territory shall constitute said eastern district, and the said Oklahoma Territory shall constitute said western district. The circuit and district courts for the eastern district shall be held one term at Muscogee, one term at Vinita, one term at Tulsa, one term at South McAlester, one term at Chickasha and one term at Ardmore, each year, and the circuit and district courts of the western district shall be held one term at Guthrie, one term at Oklahoma City, and one term at Enid, and one term at Lawton, each year, for the time being. And the said districts shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. There shall be appointed a clerk for each of said districts, who shall keep his office at Muscogee and Guthrie, respectively, for the time being. The regular term of said courts shall be held at the places designated in this Act, at Muscogee on the first Monday in January and at Vinita on the first Monday in March and at Tulsa on the first Monday in April; at South McAlester on the first Monday in June; at Ardmore on the first Monday in October; at Chickasha on the first Monday of November; at Guthrie on the first Monday in January; at Oklahoma City on the first Monday in March; at Enid on the first Monday in June, and at Lawton on the first Monday in October, in each year, and one grand jury shall be summoned in each year in each of said circuit and district courts. The circuit and district courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerk of each of the circuit and district courts of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in other districts of the United States; and that the laws in force in the Territory of Oklahoma, as far as applicable, shall extend over and apply to said State until changed by the legislature thereof.

SEC. 14. That all prosecutions for crimes or offenses hereafter committed in either of said judicial districts as hereby constituted shall be cognizable within the district in which committed, and all prosecutions for crimes or offenses committed before the passage of this Act in which indictments have not yet been found or proceedings instituted shall be cognizable within the judicial district as hereby constituted in which such crimes or offenses were committed.

SEC. 15. That all appeals or writs of error taken from the supreme court of Oklahoma Territory, or the United States court of appeals in the Indian Territory to the Supreme Court of the United States or the United States circuit court of appeals for the eighth circuit, previous to the final admission of such State shall be prosecuted to final determination as though this Act had not been passed. And all cases in which final judgment has been rendered in such Territorial appellate courts which appeals or writs of error might be had except for the admission of such State may still be sued out, taken, and prosecuted to the Supreme Court of the United States or the United States circuit court of appeals under the provisions of existing laws, and there held and determined in like manner, and in either case the Supreme Court of the United States, or the United States circuit court of appeals, in the event of reversal shall remand the said causes to either the State supreme court or other final appellate court of said State, or the United States circuit and district courts of said State, as the case may require: *Provided*, That the time allowed by existing law for appeals and writs of error from appellate courts of said Territories shall not be enlarged hereby, and all appeals and writs of error not sued out from the final judgments of said courts at the time of the admission of such State shall be taken within six months from such time.

SEC. 16. That all causes pending in the supreme

and district courts of Oklahoma Territory and in the United States courts and in the United States court of appeals in the Indian Territory arising under the Constitution, laws or treaties of the United States, or affecting ambassadors, ministers, or consuls of the United States, or of any other country or State, or of admiralty or of maritime jurisdiction, or in which the United States may be a party, or between citizens of the same State claiming lands under grants from different States; and in all casese where there is a controversy between citizens of said Territories prior to admission and citizens of different States, or between citizens of different States or between a citizen of any State and citizens or subjects of any foreign State or country, and in which cases of diversity of citizenship there shall be more than two thousand dollars in controversy, exclusive of interest and costs, shall be transferred to the proper United States circuit or district court for final disposition: *Provided*, That said transfer shall not be made in any case where the United States is not a party except on application of one of the parties in the court in which the cause is pending, at or before the second term of such court, after the admission of said State, supported by oath, showing that the case is one which may be so transferred, the proceedings to effect such transfer, except as to time and parties, to be the same as are now provided by law for the removal of causes from a State court to a circuit court of the United States; and in causes transferred from the appellate courts of said Territories the circuit court of the United States in such State shall first determine such appellate matters as the successor of and with all the power of said Territorial appellate courts, and shall thereafter proceed under its original jurisdiction of such causes. All final judgments and decrees rendered in such circuit and district courts in such transferred cases may be reviewed by the Supreme Court of the United States or by the United States circuit court of appeals in the same manner as is now provided by law with reference to existing United States circuit and district courts.

SEC. 17. That all cases pending in the supreme court of said Territory of Oklahoma and in the United States court of appeals in the Indian Territory not transferred to the United States circuit and district courts in said State of Oklahoma shall be proceeded with, held, and determined by the supreme or other final appellate court of such State as the successor of said Territorial supreme court and appellate court, subject to the same right to review upon appeal or error to the Supreme Court of the United States now allowed from the supreme or appellate courts of a State under existing laws. Jurisdiction of all cases pending in the courts of original jurisdiction in said Territories not transferred to the United States circuit and district courts shall devolve upon and be exercised by the courts of original jurisdiction created by said State.

SEC. 18. That the supreme court or other court of last resort of said State shall be deemed to be the successor of said Territorial appellate courts and shall take or possess any and all jurisdiction as such, not herein otherwise specifically provided for, and shall receive and retain the custody of all books, dockets, records, and files not transferred to other courts, as herein provided, subject to the duty to furnish transcripts of all book entries in any specific case transferred to complete the record thereof.

SEC. 19. That the courts of original jurisdiction of such State shall be deemed to be the successor of all courts of original jurisdiction of said Territories and as such shall take and retain custody of all records, dockets, journals, and files of such courts except in causes transferred therefrom, as herein provided; the files and papers in such transferred cases shall be transferred to the proper United States circuit or district court, together with a transcript of all book entries to complete the record in such particular case so transferred.

SEC. 20. That all cases pending in the district courts of Oklahoma Territory and in the United States courts for the Indian Territory at the time said Territories become a State not transferred to the United States circuit or district courts in the State of Oklahoma shall be proceeded with, held, and determined by the courts of said State, the successors of said district courts of the Territory of Oklahoma and United States courts for the Indian Territory, with the right to prosecute appeals or writs of error to the supreme court of said State, and also with the same right to prosecute appeals or writs of error from the final determination in said causes made by the supreme court of said State of Oklahoma to the Supreme Court of the United States, as now provided by law for appeals and writs of error from the supreme court of a State to the Supreme Court of the United States.

SEC. 21. That the constitutional convention may by ordinance provide for the election of officers for a full State government, including members of the legislature and five Representatives to Congress, and shall constitute the Osage Indian Reservation a separate county, and provide that it shall remain a separate county until the lands in the Osage Indian Reservation are allotted in severalty and until changed by the legislature of Oklahoma, and designate the county seat thereof, and shall provide rules and regulations and define the manner of conducting the first election for officers in said county. Such State government

shall remain in abeyance until the State shall be admitted into the Union and the election for State officers held, as provided for in this Act. The State legislature when organized shall elect two Senators of the United States, in the manner now prescribed by the laws of the United States, and the governor and secretary of said State shall certify the election of the Senators and Representatives in the manner required by law; and said Senators and Representatives shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States. And the officers of the State government formed in pursuance of said constitution, as provided by said constitutional convention, shall proceed to exercise all the functions of such State officers; and all laws in force in the Territory of Oklahoma at the time of the admission of said State into the Union shall be in force throughout said State, except as modified or changed by this Act or by the constitution of the State, and the laws of the United States not locally inapplicable shall have the same force and effect within said State as elsewhere within the United States.

SEC. 22. That the constitutional convention provided for herein shall, by ordinance irrevocable, accept the terms and conditions of this Act.

[Sec. 23-41 pertain to New Mexico and Arizona.]

CHAPTER XXVII

CONSTITUTION MAKING AND ADMISSION AS A STATE

The election of delegates to the constitutional convention was held at the general elections on November 6, 1906. The results of the election were a matter of some surprise to the country outside of Oklahoma, where it was generally considered that Oklahoma was safely Republican. The inclusion of Indian Territory within the field of a national election introduced an unknown element, but even so the election of an overwhelming majority of Democratic delegates to the constitution was unlooked for. Out of the 112 delegates, only thirteen were Republicans. By many it was considered that the Democratic landslide was a rebuke to what was often called the "carpet-bag government," and the long-range administration of affairs in the territory by the central government at Washington. Though it was thought in advance that the Indian Territory might poll a large Democratic vote, as it turned out, there were more Republican delegates in the convention from the Indian Territory side than from Oklahoma.[1]

According to section 3 of the enabling

[1] The 112 delegates to the constitutional convention, chosen in the general election of November 6, with the number of the district from which chosen, the political party represented, and the address of the delegates, follow in tabular form below:

Delegates to the Constitutional Convention.

District.

1. T. O. James.
2. F. C. Tracy, D., Beaver.
3. Edward R. Williams.
4. H. P. Covey, R., Fargo.
5. O. E. McCance, D., Mutual.
6. Dr. G. N. Bilby, D., Alva.
7. J. C. Majors, D., Granton.
8. George Wood, D., Cherokee.
9. D. G. Harned, D., Ringwood.
10. W. F. Hendricks, D., Wakita.
11. C. H. Pitman, D., Enid.
12. J. A. Anderson, D., Pond Creek.
13. Charles L. Moore, D., Enid.
14. A. H. Ellis, D., Orlando.
15. D. S. Rose, D., Blackwell.
16. J. F. King, D., Newkirk.
17. H. S. Johnson, D., Perry.
18. G. M. Berry, D., Pawnee.
19. E. J. Newell, D., Yale.
20. J. E. Sater, R., Stillwater.
21. R. E. Houston, R., Ogra.
22. J. M. Sandlin, D., Prague.
23. H. L. Cloud, R., Wellston.
24. W. L. Helton, D., Marshall.
25. H. E. Asp, R., Guthrie.
26. W. D. Jenkins, R., Guthrie.
27. W. T. S. Hunt, D., Oklahoma City.
28. W. C. Hughes, D., Oklahoma City.
29. J. L. Mitch, D., Oklahoma City.
30. S. M. Ramsey, D., Tecumseh.
31. J. H. Maxey, D., Shawnee.
32. I. B. Littleton, D., Earlsboro.
33. T. C. Wyatt, D., Annette.
34. J. S. Buchanan, D., Norman.
35. J. K. Norton, D., Piedmont.
36. J. J. Carney, D., El Reno.
37. M. T. Kane, D., Kingfisher.
38. T. D. Rice, D., Hitchcock.
39. C. C. Fisher, D., Hinton.
40. H. Kelly, D., Minco (I. T.).
41. C. H. Bowers, D., Cement.
42. H. O. Tenor, D., Taloga.
43. David Hogg, D., Grand.
44. W. S. Deering, D., Clinton.
45. J. B. Harrison, D., Sayre.
46. F. E. Herring, D., Elk City.
47. B. E. Bryant, D., Gotebo.
48. J. J. Savage, D., McKnight.
49. Luke Roberts, D., Olustee.
50. W. J. Caudill, D., Granite.
51. W. E. Banks, D., Hess.
52. J. B. Task, D., Hobart.

act, the delegates were to meet at the seat of government of Oklahoma territory on the second Tuesday following their election, form permanent organization, declare their adoption of the constitution of the United States, and then proceed to the formation of a state constitution. The Democrats being in full control, the election of the convention president was decided by caucus before the convention assembled. The factional skirmishing that preceded the election of the presiding officer was an incident of the politics of the time that can have no proper discussion here. The three principal candidates for the office were William H. Murray, of Tishomingo; W. C. Hughes, of Oklahoma City, and Pete Hanraty, of South McAlester, the last named being president of the twin-territory labor federation. At the caucus on Monday before the opening of the convention, Murray was chosen by 61 votes against 26 cast for Hanraty, and the latter was then given the vote by acclamation for vice-president.

Brooks opera house in the city of Guthrie was the scene of the first day's proceedings of the convention, which was called to order at 2:30 o'clock on November 20, by Delegate Henry S. Johnston, of Perry. After the invocation by Rev. Frank Naylor, of Shawnee, J. S. King was chosen temporary chairman, and John M. Young, of Lawton, temporary secretary. Justice Burford, of the territorial supreme court, who as president of the Oklahoma City Commercial Club in 1890 had signed the call for the first statehood convention held in Oklahoma, administered the oath to the delegates.[2]

For the election of a president of the

53. W. H. Edley, D., Fletcher.
54. John M. Carr, D., Frederick.
55. G. M. Tucker, D., Comanche (I. T.).
56. T. J. Leahy, D., Pawhuska.
57. J. J. Curl, D., Bartlesville.
58. W. D. Humphrey, D., Nowata.
59. W. H. Kornegay, D., Vinita.
60. D. P. Willis, D., Chelsea.
61. J. W. Swarts, D., Chelsea.
62. Riley Copeland, D., Fairland.
63. J. K. Hill, D., Catoosa.
64. C. V. Rogers, D., Claremore.
65. J. H. Langley, D., Pryor Creek.
66. J. T. Edmondson, D., Mayesville.
67. J. H. N. Cobb., R., Sapulpa.
68. Nelson Flowers, D., Tulsa.
69. W. T. Dalton, D., Broken Arrow.
70. A. L. Husan, D., Coweta.
71. J. A. Harris, R., Wagoner.
72. A. S. Wiley, D., Tahlequah.
73. C. W. Board, Okmulgee.
74. W. A. Cain, R., Oktaha.
75. P. B. Hopkins, R., Muskogee.
76. C. N. Haskell, D., Muskogee.
77. O. H. P. Brewer, D., Webber Falls.
78. W. N. Littlejohn, D., Bushy.
79. W. B. Hudson, R., Henryetta.
80. N. G. Turk, R., Checotah.
81. M. H. Tate, R., Wewoka.
82. Elf Nessenger, D., Holdenville.
83. Wm. C. Leidkter, D., Eufaula.
84. D. M. Faulkner, D., Gans.
85. S. O. Hays, D., Chickasha.
86. Charles McClain, D., Purcell.
87. Carlton Weaver, D., Ada.
88. B. F. Harrison, D., Newburg.
89. J. I. Wood, D., Scipio.
90. Pete Hanraty, D., South McAlester.
91. N. P. Gardener, D., Styler.
92. E. T. Sorrells, D., Helton.
93. R. J. Allen, D., Chickasha.
94. Miles Lancaster, D., Pauls Valley.
95. F. J. Stowe, Ind., Wynnewood.
96. C. S. Leeper, D., Sapulpa.
97. Boone Williams, D., Lehigh.
98. A. G. Cochran, D., Hartshorne.
99. J. L. Lattimer, D., Wilburton.
100. C. C. Mathis, D., Monroe.
101. Charn. Jones, D., Ryan.
102. L. J. Akers, D., Woodford.
103 W. A. Ledbetter, D., Ardmore.
104 W. H. Murray, D., Tishomingo.
105. J. H. Chambers, D., Atoka.
106. J. C. Graham, D., Marietta.
107. G. A. Henshaw. D., Madill.
108. R. L. Williams, D., Durant.
109. G. E. Parker, D., Bokoshe.
110. B. F. Lee, D., Hugo.
111. S. J. Herndon, D., Idabel.

[2] "I do solemnly swear that I will support and

convention a rising vote was taken on the two candidates, 97 votes being cast for Murray, the caucus nominee of the Democrats, and 11 votes for Phillip B. Hopkins, of Muskogee, the Republican candidate. The other permanent officers chosen were Pete Hanraty, vice-president; W. A. Durant, sergeant-at-arms, and John M. Young, secretary.

The constitutional convention, instead of completing its work in sixty days, as outlined in the enabling act, remained in session until March 5, 1907, and then took a recess until April 16, at which time the members assembled and signed the document. Even then, no adjournment sine die was taken, but only till July 5, the day before the date fixed for the election at which the people were to vote on the constitution and for state officers.

Probably no body of delegates gathered for the purpose of drafting the fundamental laws of a state was ever subjected to more criticism and abuse than the Oklahoma constitutional convention. Several reasons may be assigned for this—first, the convention was overwhelmingly Democratic, and the party hitherto in control of the territorial government was completely shut out from any participation in the making of the constitution; a natural bitterness consequently existed among the defeated, and was manifested in a persistent hostility to all the acts of the majority; secondly, the majority of those chosen for the task of constitution-making were frankly progressive, if not radical, in their views on the powers and limitations of government. The entire nation at this time was undergoing a civic regeneration, as it were, and revising its opinions and seeking to make the powers of government keep pace with the rapid progress of modern industrialism and social conditions. The spirit of change was in the air, and the constitutional delegates, no less affected by it than people in other states, saw in their present task an opportunity to profit by the ideals of the new era and incorporate its fundamental principles in the constitution. As a matter of course, the efforts to do this were regarded with apprehension by the conservative element, and the provisions of the constitution that, on one side, were believed to be progressive and in keeping with modern conditions, were denounced; on the other side, as experimental and dangerously radical. And, finally, the eyes of the entire country were upon the convention, its actions were scrutinized and analyzed by critics in the east and west, north and south, and the reflex of public opinion was felt to a greater degree by this convention than any body of law makers has ever experienced.

After the first draft of the constitution had been prepared and the constitution had taken a recess, the constitution was subjected to most merciless criticism, and every possible means employed to discredit it in the eyes of the people. During the spring and summer of 1907 it was almost impossible for a disinterested observer to discover what was the actual sentiment of the whole people, or how the constitution would be received when it came to a vote for ratification. The public press was, as a rule, thoroughly partisan, either defending the work of the convention as a whole, or bitterly hostile, and a calm and dis-

defend the constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any natural reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.''

criminating discussion of the constitution on its merits could not be found in the public prints.

A thorough review of the details of the campaign for and against the constitution cannot be attempted. One of the incidents, however, must be noticed because of the prominence it received in newspaper accounts. By the terms of the enabling act, the constitution, after being drawn by the convention, was to be delivered to the territorial secretary, and, being thus officially sanctioned as the convention's work, the proclamation of the governor should issue calling an election to vote on the constitution. When the convention adjourned to another day, in April, President Murray retained the original constitution and refused to deliver it to the territorial secretary.[3] This gave rise to numerous stories that went the rounds of the newspapers, and it was claimed that inasmuch as the constitution had never been officially filed, there was no constitution before the people for consideration and that the work of the convention was null and void.[4]

[3] For the reasons assigned for this action, see sketch of William H. Murray, volume II.

[4] May 2, 1907, at what was called a "Republican love feast," held in Oklahoma City and attended by the Republicans of all parts of the new state, the party expressed its disapproval of the withholding of the constitution by the chairman of the convention in the following resolutions, introduced by D. T. Flynn:

"WHEREAS, First, pursuant to an enabling act passed by Congress, a constitutional convention for Oklahoma and Indian Territory has assembled and adjourned, giving out the general information that it has adopted a constitution for the admission of said territories into the Union as one state, and from rumor it is stated that said constitutional convention has fixed the 6th day of August, 1907, as the day upon which a vote of the people will be had to ratify or reject such constitution."

Continuing, it was asserted that the election of officers for the new state had no official announcement beyond rumor, and that it was impossible to determine the exact provisions of the constitution.

"Fourth, it is rumored and generally understood, that the result of the action of said constitutional convention has by order of such convention been turned over to the custody of one William Murray, who has taken the same from the seat of government and the seat of such convention to his home in Tishomingo, and is now in his private custody.

"Fifth, in the enabling act assembling such convention it is by fair inference provided that the constitution adopted by such convention shall be filed with the secretary of Oklahoma Territory in a provision which requires him to deliver the original draft of such constitution to the state authorities when the same has been ratified by a vote of the people and the state admitted into the Union; and said convention has adjourned to the 5th of August, 1907, without providing for the filing of such draft of the constitution with the secretary of Oklahoma or in any public archive where the same may be verified and its contents made public by the proclamation calling an election for its ratification, and there being now, during the adjournment of said convention, no power to file the same, except the will of its custodian, and the governor of Oklahoma is powerless to issue a proclamation setting forth the terms and tenor of said constitution, calling an election of the people to vote upon the adoption or rejection of the same without the filing of such constitution in the archives of the territory.

"Sixth, the withholding of the draft of the constitution from public inspection in the archives of the territory of Oklahoma or Indian Territory and placing the same in the exclusive possession of a member of the convention is substantially retaining the same in the possession of the convention for its further action if it so desires. Such an instrument is now a completed document submitted to the consideration of the people.

"Therefore, be it resolved: First, that there is no question or proposition pending before the public for their consideration and no offices provided for to be filled by an election and a call cannot now be made for the nomination of officers whose office has not been provided for.

"Second, that the action of said convention in secretly withholding this draft of a constitution from public inspection is cowardly and violative of every principle of honest action in the interest of the public." The resolutions close with a recommendation that the Republican party take action to meet the peculiar conditions resulting from the alleged irregularities of the convention.

One of the most serious attacks made on the work of the constitutional convention was the injunction suit brought by Woods county against the constitutional convention. Under the provisions of the constitution, Woods county as it had existed under the territory was divided, and from its territory two new counties, Alfalfa and Major, were created. In the district court Woods county asked a restraining order preventing this division of the county, holding that the convention had no right to form new counties. On May 13, 1907, Judge Pancoast, of the district court, granted this plea. The effect of the injunction was to upset the plans for statehood during the six weeks following the granting of the injunction. It delayed the proclamation for an election to ratify the constitution, and added to the general confusion attending the issues involved. It created much uncertainty among the people of Oklahoma, and the nation as well, as to whether Oklahoma had a constitution at all, whether the work of the convention was valid or might have to be done all over again.

June 25, 1907, the injunction was dissolved by the territorial supreme court, in a majority opinion delivered by Justice B. T. Hainer. The court held that the constitutional convention did not exceed its authority in subdividing the counties, and that the enabling act also delegated to the convention power to create state officers and provide for their election, including state, county, township, legislative, judicial and senatorial, and in providing election machinery for the unorganized counties.

The injunction order, having been dissolved on June 25, a call was then issued for the convention to reassemble on July 10. After the convention reconvened it adopted forty-three amendments to the original draft of the constitution.[8] A new election ordinance was provided, and on

[8] One of the incidents connected with the making of the constitution was the writing of a letter by Mr. Murray to the president, in which he asks the opinion of the latter on the constitution as first formulated in the convention and requests an expression from the president which will serve to guide the convention in its revision of the constitution when the convention should reassemble. This letter, dated June 26, began as follows: "In view of the numerous criticisms through the Republican press of the constitution for the proposed state of Oklahoma, and the claim that certain provisions must be eliminated as the price of statehood, I address you," etc. Continuing Mr. Murray stated that the enabling act contained more restrictions on the constitutional convention than had ever been true of any previous convention engaged in similar labors, but, he said, notwithstanding the fact that the convention has accepted these restrictions in good faith, "the daily Republican press is filled with numerous criticisms to the effect that the legislative apportionment is an outrageous 'gerrymander,' and that other unnamed provisions of the constitution are repugnant to your idea of statecraft and that their elimination is the price of statehood. While we do not yield the point that a state, in the exercise of its police powers or in the adoption of its economic policies, is either expected or required to frame a constitution to suit either the executive or legislative branch of the United States, yet in view of the fact that the uncertainties of statehood have wrought injuries to the business interests of this state . . . and believing . . . that you would not purposely further delay the blessing of self-government, I respectfully request and solicit from you an expression upon the constitution. . . . Your expression of disapproval at this time would enable the convention to eliminate the objectionable provisions, if any . . ."

As to the "gerrymander," Mr. Murray said: "The charge 'gerrymander' is easily made, but never in framing the legislative districts (which in a measure was a guess, because of the rapid growth and increase in population of the different sections of the territory) did the minority of the convention make a request upon us."

President Roosevelt's reply to this letter was brief, stating merely that the communication had been referred to the attorney general.

July 22 a completed copy of the constitution and the election ordinance was filed with the secretary of the territory in accordance with the provisions of the enabling act.

July 24, 1907, Governor Frantz issued his proclamation[8] calling an election on September 17 for the people of Oklahoma and Indian Territory to vote on the adoption of the constitution, on the adoption of

[8] Governor Frantz at 4 o'clock July 24, 1907, issued the election proclamation, which follows:

To the Public, Greetings:

WHEREAS, pursuant to an act of Congress entitled "An act to enable the people of Oklahoma and of Indian Territory to form a constitution and state government and be admitted into the union on an equal footing with the original states; and to enable the people of New Mexico and of Arizona to form a constitution and state government and be admitted into the union on an equal footing with the original states," approved June 16, 1906, and hereinafter referred to as the enabling act, delegates were duly elected, and

WHEREAS, said delegates so elected did on the second Tuesday after their said election, meet at the city of Guthrie, the seat of government of said Oklahoma Territory, and organize as a convention, and

WHEREAS, after such organization said delegates, in convention assembled, did declare that they adopted the constitution of the United States on behalf of the people of the proposed state of Oklahoma, and

WHEREAS, said constitutional convention did, by ordinance irrevocable, accept the terms and conditions of said enabling act, and

WHEREAS, said convention did thereupon form a constitution and state government for said proposed state of Oklahoma, and

WHEREAS, in pursuance of a resolution of said convention, the said constitution of said proposed state of Oklahoma engrossed and enrolled upon parchment, signed by the officers of said convention and certain members thereof and attested by the secretary of the territory of Oklahoma under the great seal of said territory of Oklahoma, was on the 22d day of July, A. D. 1907, filed in the office of said secretary and is now on file in said office, and

WHEREAS, said convention did, after said constitution and state government for said proposed state of Oklahoma had been so formed as aforesaid, provide by ordinance, as amended on the 15th day of July, A. D. 1907, entitled

"An ordinance providing for an election at which the proposed constitution for the proposed state of Oklahoma shall be submitted to the people thereof for ratification or rejection, and submitting separately to the people of the proposed state of Oklahoma the proposed prohibition article making substantially the terms of the enabling act uniformly applicable to the entire state for ratification or rejection, and for the election of certain state, district, county, and township officers provided for by said proposed constitution, and for election of members of the legislature of said proposed state of Oklahoma and five representatives to Congress,"

for submitting said proposed constitution to the people of said proposed state and for its ratification or rejection at an election to be held at a time fixed in said amended ordinance, to-wit, on the 17th day of September, A. D. 1907, at which election the qualified voters for said proposed state shall vote directly for or against said proposed constitution and for or against any provision separately submitted, and

WHEREAS, by said amended ordinance it is provided that, at said election, a separate provision adopted by said convention, that is to say, a proposition as to whether or not the manufacture, sale, barter, giving away or otherwise furnishing intoxicating liquors shall be prohibited in said proposed state for a period of twenty-one years from the date of its admission into the union, and thereafter until the people of the state shall otherwise provide by amendment of said constitution and proper state legislation, the said proposition being: "Shall the provisions for state-wide prohibition be adopted?" and

WHEREAS, it is provided by said amended ordinance, that, at the time and place of said election for the ratification or rejection of said proposed constitution, there shall be held an election for officers for a full state government, including all of the elective state, district, county and township officers, provided for by the provisions of said constitution, members of the legislature and five representatives to Congress, and

WHEREAS, said amended ordinance, certified by the president and secretary of said convention, was on the 22nd day of July, A. D. 1907, filed in the office of the secretary of said territory of Oklahoma and is now on file in said office, and

WHEREAS, section twenty-one (21) of said amended ordinance makes it the duty of the governor of the territory of Oklahoma to issue proclamation giving the public notice of the time and place of holding said election:

Now, therefore, I, Frank Frantz, governor of the territory of Oklahoma, by authority of said amended ordinance, do hereby make proclamation giving notice that the elections hereinbefore men-

prohibition as a separate provision, and for the election of officers. The Republican and Democratic parties put full tickets in the field, and the Socialist party had a partial ticket. The vote as finally canvassed and certified to the president of the United States by the canvassing board on October 8 was as follows:

CONSTITUTION.

For	180,333
Against	73,059

PROHIBITION.

For	130,361
Against	112,258

GOVERNOR.

Democratic	134,162
Republican	106,507
Socialist	9,740

tioned and provided for will be held in each and all election and voting precincts in each and every county and district in and throughout the said proposed state of Oklahoma on Tuesday, the 17th day of September, A. D. 1907, at and between the hours of said day fixed by law, at which election the qualified electors for said proposed state of Oklahoma shall vote directly for or against the said proposed constitution, and for or against the separate provision, separately submitted as aforesaid, and for any and all of the elective officers for a full state government, state, district, county and township, and members of the legislature and representatives to Congress hereinbefore mentioned.

In witness whereof, I have hereunto set my hand and caused the great seal of the territory of Oklahoma to be affixed thereto, at the city of Guthrie, county of Logan, territory of Oklahoma, this 24th day of July, A. D. 1907.

(Seal) FRANK FRANTZ,
Governor of the Territory of Oklahoma.
Attest:
CHAS. H. FILSON,
Secretary of Oklahoma Territory.

[1] Following is the full text of the proclamation:

"By the President of the United States of America—A Proclamation:

"WHEREAS, the Congress of the United States did by an act approved on the 16th day of June, one thousand nine hundred and six, provide that the inhabitants of the territory of Oklahoma and of the Indian Territory might, under and upon the conditions prescribed in said act, adopt a constitution and become the state of Oklahoma, and

The results of the election of September 17th were certified to the president in October, and in the same month it was decided that the new state should be received into the union on November 16th following.

The ceremonies of statehood day began in Washington, in the cabinet room of the president. Little formality attended the act. A number of Oklahoma citizens, several senators from other states, and newspaper correspondents were in the room when, at 10:16 o'clock, Secretary Loeb threw open the double doors leading from the president's private office. The secretary had the proclamation[1] in his hand and laid it on the large square blotter at the

"WHEREAS, by the said act provision was duly made for the election of a constitutional convention to form a constitution and state government for the said proposed state; and

"WHEREAS, it appears from the information laid before me that such convention was duly elected and such constitution and state government were thereby duly formed, and

"WHEREAS, by the said act the said convention was further authorized and empowered to provide by ordinance for submitting the said constitution to the people of the said state for ratification or rejection, and likewise for the ratification or rejection of any provisions thereof to be by the said convention separately submitted, and

"WHEREAS, it has been certified to me, as required by the said act, by the governor of the territory of Oklahoma and by the judge senior in service of the United States court of appeals in the Indian Territory that a majority of the legal votes cast at an election duly provided for by ordinance, as required by said act, have been cast for the adoption of said constitution, and

"WHEREAS, a copy of the said constitution has been certified to me, as required by said act, together with the articles, propositions and ordinances pertaining thereto, including a separate proposition for state-wide prohibition which has been certified to me as having been adopted by a majority of the electors at the election aforesaid, and

"WHEREAS, it appears from the information laid before me that the convention aforesaid after its organization and before the formation

head of the table. The president entered, greeted those assembled, and took his seat at once. He was handed a long eagle quill pen[6] and himself lifting the lid from the inkstand, dipped the pen and wrote his name in large letters, the pen making an audible scratch with each movement. When he had finished his signature the president picked up a small blotter, with which he blotted his name, and then, looking up, exclaimed, "Oklahoma is a state." The act of signing took just one minute, and the president then retired from the room, while the others hastened to communicate the news to the waiting crowds at the Oklahoma capital.

The scenes and incidents of this memorable day at Guthrie can best be described from the columns of the Oklahoma *State Capitol:*

"With solemn grandeur the youngest member of the Union was brought into being, at 9 o'clock yesterday morning, when the proclamation admitting Oklahoma and Indian Territory into the Union came hurtling over the wire from the national capital. Three hours later the new state officers had been sworn in and the new regime was fairly launched on its voyage.

"The news of the signing of the constitution and issuing the presidential proclamation was received by a great demonstration of enthusiasm. Bells rang, whistles blew and people took occasion to show the feeling that imbued the great crowd.

"The ceremony incident to administering the oath to Governor-elect Charles N. Haskell and the remaining state officers was carried out at the Carnegie Library on a wooden platform constructed over the steps at the south entrance.

"For an hour before noon the street in front of the building was packed. Men, women and children stood patiently on the brick pavement waiting for the arrival of the governor's party. The steps, which are high above the sidewalk and street, were

of the said constitution duly declared on behalf of the people of the said proposed state that they adopted the constitution of the United States, and

"WHEREAS, it appears that the said constitution and government of the proposed state of Oklahoma are republican in form and that the said constitution makes no distinction in civil or political rights on account of race or color, and is not repugnant to the constitution of the United States or to the principles of the declaration of independence, and that it contains all of the six provisions expressly required by section 3 of the said act to be therein contained; and

"WHEREAS, it further appears from the information laid before me that the convention above mentioned did by ordinance irrevocable accept the terms and conditions of the said act, as required by section 22 thereof, and that all the provisions of the said act approved on the 16th day of June, one thousand nine hundred and six, have been duly complied with,

"Now, therefore, I, Theodore Roosevelt, president of the United States of America, do, in accordance with the provisions of the said act of Congress of June 16, 1906, declare and announce that the result of the said election, wherein the constitution formed as aforesaid was submitted to the people of the proposed state of Oklahoma for ratification or rejection, was that the said constitution was ratified together with a provision for state-wide prohibition, separately submitted at the said election; and the state of Oklahoma is to be deemed admitted by Congress into the Union under and by virtue of the said act on an equal footing with the original states.

"In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the city of Washington this 16th day of November in the year of our Lord one thousand nine hundred and seven, and of the independence of the United States of America the one hundred and thirty-second.

"THEODORE ROOSEVELT.

"By the president: ELIHU ROOT, secretary of state."

[6] Taken from a large eagle killed in Oklahoma. Both the pen and the mounted eagle are now property of the Oklahoma Historical Society.

decorated with flags and on the platform rested two huge bouquets of chrysanthemums.

"Mr. Haskell and escort and the other members of the administration to be reached the library a few minutes before twelve. They were escorted in the side entrance on the west. The crowd saw them come and let out a noisy welcome.

"When Mr. Haskell appeared through the big doors on the platform a great shout went up from the thousand of throats below him. Coming from the darkened interior of the building the sunlight for a moment dazzled the governor-elect. He quickly lowered his head and as he blinked his eyes to shut out the sudden light he smiled at the moving mass of faces that stretched for a block below him. He bowed right and left, apparently delighted with the reception. After a few moments he stepped back into the crowd and Judge Frank Dale, chairman of the executive committee of the inaugural celebration, walked to the front of the stage.

"In a few words he introduced Charles Filson, secretary of the territory of Oklahoma, who read the presidential proclamation. The crowd received the formal announcement of the creation of the state with the utmost good will.

"When the applause had died down Judge Dale introduced C. G. Jones, of Oklahoma City, who, he explained, would propose marriage on behalf of Oklahoma to Miss Indian Territory.

"The 'bridegroom,' not one whit abashed, took his place in the center of the platform and began his abbreviated wooing with a knowing nod in the direction of the spectators.

"'I have been asked,' he said, 'to perform the agreeable duty of proposing the marriage of Oklahoma to the Indian Territory. Permit me to say that nothing gives me greater pleasure, as the President advises us in his proclamation that the marriage will be strictly legal, without regard to age, condition or previous servitude. The bridegroom is only eighteen years old, but is capable of assuming all the matrimonial responsibilities of a stalwart youth. Though he was born in trouble, in tribulation, in the city of Washington in 1889, his life of eighteen years on the plains has been one of tremendous activity, and he has grown to the size of a giant. Like every well-regulated masculine individual he has grown tired of being alone, though he was fairly capable of taking care of himself. Strange to say, on account of his youth and inexperience, he is possessed of an unconquerable modesty and he has asked me to propose marriage with the Indian Territory.

"'Out of sympathy for the young bachelor, I now propose to the Indian Territory, who I am assured is matrimonially inclined, that the proposal be accepted, and that the union be consummated here and now. It should be understood, however, that nothing should be said about the age of the bride. It is a case when youth and age are to be blended together in harmonious union, and that under the constitution and laws of divorce can ever be granted. This is not exactly a case of love at first sight. A lady by the name of Sequoyah at one time interfered with the courtship and at first tried to break up the match. But having failed to do so, and tired of the loneliness of single blessedness, she gracefully surrendered to the inevitable and has ever since been in favor of the marriage.

"'By authority vested in me by the high

contracting parties, and in obedience to their request, I now call upon Rev. W. H. Dodson, of the First Baptist Church of Guthrie, to perform the marriage ceremony.'

"The response for the blushing bride was made by W. A. Durant, of Durant, Indian Territory, a fullblood Indian. His formal acceptance was as follows:

" 'To you, Mr. Jones, as the representative of Mr. Oklahoma, I present the hand and the fortune of Miss Indian Territory, convinced by his eighteen years of persistent wooing that his love is genuine, his suit sincere and his purposes most honorable. With pride and pleasure I present to him Miss Indian Territory, who was reared as a politician' orphan, tutored by federal office holders and controlled by an indifferent guardian residing a thousand miles from her habitation.

" 'Despite these unhappy circumstances of her youth, which have cast a shade of sorrow over a face by nature intended to give back only the warm smiles of God's pure sunshine, this beauteous maiden comes to him as the last descendant of the proudest race that ever trod foot on American soil; a race whose sons have never bowed their necks to the heel of the oppressor; the original occupants of the American continent.

" 'Although an orphan, Miss Indian Territory brings to her spouse a dower that, in fertile fields, productive mines and sterling and upright citizenship, equals the fortune of her wooer. To Oklahoma, into whose identity Indian Territory is about to be merged forever, must be entrusted the care of this princely estate. We resign it to you freely in the confident hope that it will be cared for, developed and conserved to the unending glory of our new state and the untold benefit of her people.

" 'Oklahoma, your wooing has been long and persistent. For eighteen weary years you have sought the hand of our fair maiden in wedlock. If the object of your suit has at times seemed indifferent, believe it to have been but evidence of a maiden's proper modesty and not a shrinking from the union.

" 'In winning the hand, you take with it the heart. Your bride comes to you without coercion or persuasion, as the loving maiden confidently places her hand in that of her husband of her choice. The love she bears for you, as the love you feel for her, arises from kindred interests, mutual aspirations and an unbounded admiration, one for the other.'

"Until she stepped to the front to accept the hand of her fiance the identity of the bride was known to but few. She was Mrs. Leo Bennett, of Muskogee, a bewilderingly handsome matron, whose Creek lineage is evidenced in a dark complexion, heightened by the bloom of perfect health.

"As she came slowly forward to the front of the platform the crowd gallantly shouted an acknowledgment. With a huge chrysanthemum the young woman shaded her eyes as she looked out over the crowd. She smiled and bowed again and again as the applause continued.

"Then the Rev. Mr. Dodson offered a fervent prayer on the union and the formal marriage of the 'twin territories' was consummated.

"Following the picturesque feature, Judge Dale raised his hand for silence as Mr. Haskell and Leslie G. Niblack, a Guthrie newspaper man, stepped forward

simultaneously. Facing Mr. Haskell, with one hand uplifted, an open bible held in the other, Mr. Niblack, recently commissioned a notary public, administered the oath and immediately afterwards Governor Haskell signed the official papers.

"Mr. Haskell then delivered his address, taking about forty-five minutes to read it in his characteristic slow and distinct manner. The delivery was punctuated by bursts of applause as the sentiment in the words struck home.

"The first official act of Governor Haskell was the appointment of Robert L. Owen, of Muskogee, and Thomas P. Gore, of Lawton, United States senators from Oklahoma. This ceremony was performed so that the new state would not be without representation during the period before the meeting of the first legislature which will elect the two men, chosen at the recent state primaries.

"'I take great pleasure in conferring on these two gentlemen the honor of representing the new state in the upper house of the national Congress,' said the governor, as he turned to where the gentlemen were standing.

"Cries of 'Owen,' 'Gore,' 'Owen,' went up from the enthusiastic crowd. Mr. Gore stepped forward and bowed his head. Suddenly a great silence fell on the spectators. There was something grand, yet pathetically human, in the sightless eyes that swept over the panorama below with the slow grace of the born orator.

"'My friends,' he said, 'I cannot express to you the pleasure I have. I extend to you the most sincere congratulations that you are now full fledged citizens. Mr. Owen and myself are proud to be your servants. We are proud to do your will and we will endeavor to do it always and well.'

"The conclusion of the brief talk was met with a demonstration of enthusiasm. Then Mr. Owen stepped forward.

"'I rejoice as an Indian from the Indian Territory that our restrictions are about to be removed,' he said. 'I rejoice I will have the opportunity to represent you. I will try to be a good and faithful servant (cries of "good," "we know it"). I want to say that I will represent Republicans as well as Democrats (cries of "you'll do"). I want to thank you for your vote of confidence. I will consecrate myself to your service and when my term ends I want nothing better than to hear your approbation.'

"In behalf of Oklahoma City formal congratulations were tendered Mr. Haskell by H. Y. Thompson, who in a short speech presented the governor with a bouquet of chrysanthemums.

"Immediately following, C. H. Pittman, delegate to the constitutional convention, in behalf of the women of Enid, in the name of Mrs. R. W. Johnson, presented Mr. Haskell with a similar cluster of chrysanthemums.

"'I give the twentieth century flower to the twentieth century governor of a twentieth century state,' he said. And the crowd yelled.

"The oaths were administered by Mr. Niblack to Lieutenant-Governor George W. Bellamy, the members of the supreme court, John B. Turner, R. L. Williams, Jesse J. Dunn, S. W. Hayes and M. J. Kane, and two of the three members of the corporation commission, Jack Love and A. P. Watson. The remaining officers, Auditor Ed. Trapp, Treasurer James A. Mene-

fee, Examiner C. A. Taylor, Mine Inspector Peter Hanraty, Insurance Commissioner T. J. McComb, Labor Commissioner C. A. Daugherty, Charities Commissioner Kate Barnard, Superintendent Cameron and Supreme Clerk W. H. L. Campbell, were sworn in by J. D. Burke, a notary public, former president of the Logan county commissioners.

"The last thing before the parade began to form for the march to the barbecue grounds, Sidney Clarke, of Oklahoma City, presented to the state a picture of Captain Payne, the noted pioneer. Mr. Clarke is one of the original statehood boomers of Oklahoma."

The Oklahoma state constitution is published in the appendix to this volume.

CHAPTER XXVIII.

THE LIQUOR TRAFFIC AND PROHIBITION

The first federal regulations for the restriction of liquor selling to Indians were contained in the act of March 30, 1802, which provided "that the president of the United States be authorized to take such measures from time to time as to him may appear expedient to prevent or restrain the vending or distributing of spirituous liquors among all or any of the said Indian tribes."

The intercourse act of 1834 provided very inadequate penalties to punish the introduction of ardent spirits among the Indians. As a result, largely, of the baneful effects of the almost unrestrained liquor traffic in the Indian country, as revealed in the reports of the government officials and missionaries and others, Congress in 1847 passed a law that added the punishment of imprisonment to the fine formerly imposed for introducing and selling intoxicating liquors in the Indian country. Even this measure was likely to prove ineffectual unless the whisky trade that flourished along the borders could be checked. Accordingly, it was sought to secure the co-operation of the neighboring states in restraining the border traffic, and to that end the secretary of war addressed a circular letter to the governors of those states, explaining the dangerous condition arising from the presence of the corrupt liquor venders around the Indian Territory and asking that measures be taken to abolish such agencies of crime and depravity. He describes the situation thus: "The principal mischief is done by and through the dram shops and traders in the article along the lines between the states and the Indian country. Indians cross the line and visit those shops, where they are permitted to indulge freely so long as they have the means of paying. They frequently awake to consciousness only to find that they have been plundered of their money, their rifles, their blankets and everything of value they brought with them, which they are told they have traded for whisky, or gambled away while in a state of intoxication. Not satisfied with such opportunities of selling liquor to the poor Indian, the traders in it within the state lines send emissaries, who are generally corrupted Indians of both sexes, with it in such quantities as they can easily carry and conceal, who barter it away to the Indians. In all cases the Indian is wronged, cheated, robbed; and the consequence is, the engendering of a feeling of unfriendliness if not of revenge against the white man for these great injuries. Whatever insecurity there may be for our frontier population, it is mainly if not entirely caused in this manner."

Liquor traffic was carried on among the Indians so openly and to such a destructive extent during the early forties that every report from agents and superintendents notes the fearful results of the practice and calls for reform measures. Intemperance was recognized as the one great evil to which the tribes could trace their downfall. The agent for the Chickasaws re-

ported the existence, in 1844, of a large distillery opposite the mouth of the Washita river. "The Indians frequently go there and bring in ten or twenty gallons at a time; some white persons have also been engaged in the business. They bring it in at night, and are never seen in the day. The places of deposit have frequently been found, and their whisky destroyed." The Chickasaw light horse, as the mounted native police of the country were known, had proved efficient in preventing much of this illicit traffic, destroying the whisky wherever it was found.

The essential difference in the status of the two divisions of the Creek Nation was found by the agent to consist in the fact that the upper towns were less exposed to the influences of the liquor traffic than the lower towns. The agent's report for 1844 describes their condition as follows: "The upper Creeks, who reside in the vicinity of the Canadian, and who are principally composed of the emigrants of 1836 and 1837, are, generally speaking, in a better condition than the lower towns; their being located at a distance from the Arkansas from the settlement of the whites, and also being further removed from their speculative and more civilized neighbors, the Cherokees, causes the importation of whisky into their country to be a matter of more difficulty." Further, their domestic condition is reported: "They live in good hewed log houses, are excellent farmers, and generally more reflective and economical than their brethren of the lower towns; and their females are generally occupied in the domestic occupation of spinning and weaving cotton, of which article a great proportion of what they manufacture is of their own country production."

The act of February 13, 1862, made it a crime punishable by fine and imprisonment, to sell liquor to Indians that were under the care of a superintendent or agent, whether on or off the reservation. This legislation came many years after its necessity had first become apparent, and provided prohibition perhaps as far as could be obtained by legal enactment. The constitutionality of the act was affirmed in the United States supreme court in 1865. This remained the law until the revision of the law in 1873-74, when the restrictions were removed to the extent that the selling of liquor to Indians was not an offense off the reservation. But the act of February 27, 1877, restored the former provision, so that the vending of intoxicants to Indians whose relations still continued with the government was punishable by three hundred dollars' fine and two years' imprisonment. The growth of public sentiment on the subject of alcoholism was shown in the act of 1886 by which instruction on the nature of alcohol and its effects on the human body should be included in the curricula of all Indian schools controlled by the government.

The history of the prohibition movement since the opening of Oklahoma, especially the issues and their outcome as a result of statehood, is given in the following quotations from an article by Rev. J. J. Thomson, secretary of the Oklahoma Anti-Saloon League.[1]

"More recently, the Dawes Commission negotiated various treaties with the Indians of the so-called five civilized tribes, making provision that white men might enter the territory. In each of the treaties the following pledge was given to the various tribes through the influence of Capt. A. S. McKennon, a member of the commission: 'The United States agrees to maintain strict

[1] Published in *Oklahoma Life*, November, 1907.

laws in the territory of the said nation against the introduction, sale, barter or giving away of liquors and intoxicants of any kind or quality.'

"When Oklahoma was originally opened on April 22, 1889, federal prohibition prevailed and continued to be enforced under military authority for about one year. On May 2, 1890, Congress organized the territory of Oklahoma. The laws of Nebraska were applied in Oklahoma with the distinct exception of the chapter which provided for the licensing of the liquor traffic. Notwithstanding that exception saloons were opened up in practically every city and village in all Oklahoma within twenty-four hours after the law was enacted. Thus it will be seen that the saloon came into Oklahoma without any authority either from Congress or the territorial legislature. At its first session the legislature made regulations for the restriction and licensing of the liquor traffic which went into effect December 25, 1890.

"In the year 1901 the Anti-Saloon League of Oklahoma was organized under the authority of National Superintendent Howard H. Russell, D. D., and Rev. H. E. Swan was made territorial superintendent. The work done by the league under his superintendency was quite successful in securing improvements of the laws regulating and restricting the liquor traffic, and in securing decisions by the courts to the advantage of the temperance cause. As early as 1903 a vigorous movement was begun looking to the securing of prohibition for the territory or for the state when Oklahoma should become a state. This movement took form in a convention held November 24, 1903, in Oklahoma City, where a large number of delegates were gathered representing each of the different denominations, the W. C. T. U. and other temperance organizations. Rev. Marion Porter was made president of that convention and the federation growing out of it. This was virtually the Anti-Saloon League on a larger basis, although not called by that name.

"The movement grew until in July, 1904, a call was made from Rev. P. A. Baker, general superintendent of the Anti-Saloon League of America, to come to Oklahoma and Indian Territory to inaugurate the definite movement for prohibition statehood. As a result of his visit, the Anti-Saloon League of Oklahoma was re-organized and myself, then assistant superintendent of the Toledo district of the Ohio Anti-Saloon League, was made territorial superintendent. Dr. Baker's visit at the same time resulted in the organization of the Indian Territory church federation for prohibition statehood at a convention held in the Baptist church of South McAlester, September 27-28, 1904. At this convention Rev. E. M. Sweet, Jr., of Muskogee, who had been the leader in the preparations for this convention, was made the secretary and head of the movement for Indian Territory, and Capt. A. S. McKennon the president. The two organizations started out with the one purpose of securing prohibition statehood whether there should be one state or two. Petitions were prepared and numerously signed asking Congress in giving statehood to Oklahoma and Indian Territory, whether in one or two states, to provide prohibition of the liquor traffic. These petitions were presented to Congress by Rev. E. C. Dinwiddie, legislative superintendent of the Anti-Saloon League of America, assisted by Secretary Sweet, who regarded that since his federation was not yet fully identified with the national league it was necessary that he be in Washington to look after the interest of the Indian Territory on

his own account. Dr. Dinwiddie was able to bring to bear the influence of the Anti-Saloon League of all the states of the Union in favor of this plea on the ground that the people of every state are interested in the keeping of good faith by the federal government with the Indians to whom these treaty pledges have been made. The result was that the Hamilton statehood bill, which had passed the house of representatives the winter before, was amended on February 7, 1905, in the senate by what was called the Gallinger-Stone amendment providing for the prohibition of the liquor traffic in the entire state for a period of twenty-one years. The nation was surprised that this was possible, and especially that the senate should pass such a radical provision by the remarkable vote of fifty-two to seventeen, one more than three to one.

"The liquor people of Oklahoma and many business men not directly connected with the liquor traffic, but who imagined the liquor business was necessary to business prosperity, were thrown into consternation. Plans were immediately formed for a great statehood convention of a thousand delegates to be held in Oklahoma City in July, at which it was confidently believed by the promoters that the representative citizens and business men of the two territories would declare, not only for immediate joint statehood of the two territories, but also for no prohibition, and steps were taken to secure the sending of only anti-prohibitionists to that convention. This plan, however, was defeated, for so great a number of prohibitionists were included among the thousand delegates that they succeeded in preventing a word being said against prohibition. Indeed the permanent chairman of that convention was an avowed state-wide prohibitionist.

"During the summer the Sequoyah convention met in Muskogee to prepare a constitution for that proposed state. Hon. A. S. McKennon of McAlester was made chairman of the committee on prohibition and drafted a provision for perpetual prohibition which was unanimously adopted by the convention. This provision of the Sequoyah constitution had a great deal of weight in determining the final settlement of the prohibition question for the new state.

"After the failure of the Oklahoma City convention to do anything against prohibition another effort along the same line was made in taking a large delegation to Washington, D. C. On December 6th, one hundred and thirty-eight people went on a special train from the two territories to Washington to urge immediate joint statehood. Secretly the purpose of this delegation was, in part at least, to protest against prohibition for the state. On the other hand a few of the delegation went on purpose to work for prohibition. Among these the most prominent were Rev. T. H. Harper, Rev. C. B. Larrabee, and Rev. H. L. Cloud. Superintendent Dinwiddie and Secretary Sweet were already in Washington. In spite of the opposition the prohibitionists secured a hearing before the house committee on territories. This was done through members of that committee who were favorable to the cause and who heard from their constituency at home with requests for such hearing. Two of the committee, Hon. James McKinney of Illinois and Hon. Ralph D. Cole of Findlay, Ohio, assisted very materially in securing the hearings. Eleven speakers were heard on each side and in the end the advantage was so evidently with the prohibitionists that it seemed unnecessary that the vote of the committee should be taken. Chairman

Hamilton asked Superintendent Dinwiddie to prepare the prohibition provision which he would like to have incorporated in the statehood bill, and it was so incorporated. This great victory was due largely to the influence of the Anti-Saloon League of America through its Washington representative, E. C. Dinwiddie. Of him the chairman of the 'statehood boomers,' as the delegation that went to Washington was called, said, 'That man Dinwiddie is the slickest man I ever went up against. He is as smooth as oil.'

"The provision was for absolute prohibition of the manufacture and sale of intoxicating liquors in that part of the new state comprising the Indian Territory, the Osage Nation and the Indian reservations of Oklahoma, for a period of twenty-one years from the admission of the state into the Union and thereafter until the people of the state by amendment of the constitution shall otherwise determine.

"This notable victory having been secured and the enabling act having been passed with this provision included, prohibitionists next directed their attention to the election of delegates to the constitutional convention which was to meet in Guthrie, November 20, 1906. The various counties and convention districts were organized; party nominations were jealously watched and carefully controlled wherever possible, and in the election that followed the influence of the league was thrown in favor of candidates who favored prohibition without respect to their party affiliation. When the campaign was over and the delegates elected, the anti-prohibitionists freely claimed that prohibition was defeated. But when the convention met and the prohibitionists organized the convention and elected William H. Murray president, they began to revise their estimate of their own strength. The committee on liquor traffic appointed by the president with Hon. Luke Roberts as chairman, was made up of nine prohibitionists and six supposed anti-prohibitionists. The Anti-Saloon League established headquarters in Guthrie and carried on a vigorous lobby under the direction of Superintendent Dinwiddie, assisted by all of the league force, including Rev. E. M. Sweet.

"When the committee on liquor traffic reported, the majority report was signed by ten of the fifteen members and was for a constitutional provision to be inserted in the body of the constitution as an integral part thereof, which would provide for a vote by the people of Oklahoma territory on the question of extending prohibition as provided for Indian Territory to the remainder of the state. The minority report provided for prohibition in the country and high license with local option for the cities, but was so drawn that it would practically force the saloons out of the cities of the state permanently. As a substitute for both majority reports Hon. R. L. Williams of Durant proposed straight-out constitutional prohibition for the whole state with certain omissions from the language of the enabling act. Then Hon. D. S. Rose of Blackwell proposed an amendment submitting this state-wide prohibition to a state-wide vote. This seemed to be favored by very many and with certain modifications to the Rose amendment and the Williams substitute it was acceptable to almost every one of the prohibition force. Strange to say, the opponents of prohibition voted almost solidly for both of these propositions, possibly thinking that in so doing they were defeating the prohibitionists. But the slight amendments asked for were readily agreed to without a vote and then the whole prop-

osition was very acceptable. The Rose amendment was adopted by a vote of eighty-nine to fifteen and the Williams substitute as thus amended was adopted by a vote of ninety-three to six. Then came the real test vote. Recognizing that they had walked into a trap and been successfully caught, some of our opponents proposed and pressed for an amendment which would give to any Oklahoma county the right to set aside and practically nullify state-wide prohibition by vote of the county when called for by a petition signed by twenty per cent of the tax payers of the county. Two very prominent members of the convention declared in the debate that this proposition was really intended to rob the prohibitionists of the victory they had already secured in the convention and the victory they certainly would secure in the vote of the people, and stated that they were against the proposition on account of this unfairness. The amendment was lost by an overwhelming vote of twenty-four members voting 'aye' and seventy-one voting 'no.' The prohibition victory in the convention, therefore, was complete.

"In the Democratic primaries for the nomination of state and county officers the Anti-Saloon League felt impelled to take a part, even though it was recognized that it would be seriously misunderstood. It was considered essential to the cause of prohibition that the first governor of the new state should be in sympathy with that policy. Therefore, when it became apparent that one candidate for the Democratic nomination for governor was an avowed friend of the saloon, another definitely opposed to prohibition and in favor of local option, while a third was completely committed to state-wide prohibition as submitted to the people, the league could do no other than to 'get into the game.' The tremendous popularity of Mr. Cruce, his sterling integrity and unblemished moral character, made him a difficult candidate to oppose. But the question of prohibition was paramount and the league's tremendous influence was displayed in the triumphant nomination of Hon. Charles N. Haskell for governor.

"After the nominations were made and the campaign came on for the election, the league kept free from party alliance as far as possible. Each candidate for governor declared that prohibition if adopted, would be enforceable and would be enforced if he were elected governor. The league was busy enough in handling the campaign for state-wide prohibition. Every county was organized and every city, village and rural community was reached by hosts of speakers and a flood of literature. Every county committee had its own list of speakers and the state office handled forty other speakers who covered the whole state. About ten million pages of literature were printed and distributed from state headquarters. The last six weeks of the campaign proved to be a great whirlwind in favor of prohibition. Business men and politicians became thoroughly interested and enthusiastic advocates of saloon suppression. The liquor men became so domineering and arrogant in their supposed control of the political situation that large numbers of people who were not prohibitionists from principle and not 'teetotalers' in practice enlisted warmly in the effort to carry prohibition in the new state. Some keen observers of the situation declared that the liquor men by their bulldozing methods were making more votes for prohibition than the Anti-Saloon League.

"An enormous amount of money was expended, most of it in a secret way, by the liquor interests of Oklahoma and of the

nation. A so-called citizens' league was maintained in Guthrie and a flood of literature was sent out to all parts of the state. A few papers here and there published their literature at paid advertising rates, but a large majority of the daily and weekly papers refused to print their matter under any circumstances. It became evident long before the vote was taken that prohibition was a sure winner. The result was an overwhelming victory for prohibition. At first it seemed that the majority must reach thirty thousand, but it failed to do so because the Indian Territory vote did not come up to the earlier expectations. Thousands of votes that were actually cast had to be thrown out because of irregularity. And so the majority instead of being about twenty thousand as the votes actually cast would probably have been, as counted and canvassed was 18,103. The total votes for prohibition was 130,361, against 112,258. Seventeen counties voted wet out of the seventy-five, Oklahoma, Logan and Osage on the Oklahoma side and fourteen on the Indian Territory side. The majority on the Oklahoma side for prohibition was 14,412, and on the Indian Territory side 3,691.

"It had been supposed by many that Indian Territory would vote prohibition upon Oklahoma. But not so. The Oklahoma majority was many times larger than that in Indian Territory. It had been supposed also by many that the country would vote prohibition on the cities. But instead of that the cities almost all gave majorities for prohibition or gave majorities against so small that the effect was virtually the same."

CHAPTER XXIX.

OKLAHOMA'S HERITAGE

November 16, 1907, the long story of the evolution of a state was completed. Oklahoma was a state. Its internal development subsequent to that event, and its position and influence in the union of states, are subjects that must be left for consideration until the present can be viewed through the perspective of years. It remains to account for the resources of material wealth and the sum of civic and moral advancement which Oklahoma possessed when the goal of statehood was reached.

In a material sense, Oklahoma has often been called "The Land of Now." It is in many ways a land of opportunity. When its lands were first thrown open to settlement, thousands rushed in who had failed of success in other states, hoping to find here the golden gain that misdirected energy or misfortune had denied elsewhere. It would be interesting to know how many realized their expectations.[1] As a reading of the careers of many of the individuals whose personal sketches appear in the second volume will show, there are numerous examples of the "pioneers," not only "89'ers," but "Cherokee Strippers" and settlers on other reservations, who stuck to their posts, outlived the storm and stress period of Oklahoma's history,[2] and are

[1] An editorial in an eastern paper in April, 1889, indicates one point of view in regard to the first Oklahoma settlers. It was a true statement of the situation in the main. It follows:

"A large number of persons who are preparing to rush into Oklahoma as soon as it is opened to settlement will be badly disappointed and before long will return to their old homes in disgust. Oklahoma is not a paradise, and even the settlers who get there in time to receive choice pieces of land and avoid controversy with claim-jumpers will have no easy time before them. They must go to Oklahoma provided with means of subsistence for the summer and to carry them along at least until their first crops can be sent to market. Not one in a hundred of the city-bred men who are arranging to take claims in Oklahoma will remain there long enough to perfect their titles. They should understand that the prospect before them is one of hard work, plain living, economy and self-denial. They must be prepared to abandon wholly the dissipations and the amusements to which they have been accustomed, and accept the frugal living and hard toil of the pioneer farmers. . . .

"Still there is opportunity for hard-working, self-denying poor men to become land owners and make themselves independent farmers in Oklahoma. They will not have to submit to any such hardships as bore on the successive generations of pioneers who led the advance of civilization from Pennsylvania and Virginia to the Missouri river. They will have no struggle with Indians or wild beasts. They will not have to hew and grub farms out of heavy forests. They will not find themselves with unsalable produce on their hands and compelled to burn corn for fuel. The railroads will go with them, carrying all the supplies they are able to buy and furnishing quick transportation of products to market. Towns will be built in a few days, and in a year the country will be thickly settled. The old pioneers of Ohio, Indiana, Illinois and Iowa might claim that the Oklahoma settlers will in fact experience little of the hardships of life in a new country, and will have no right to be styled frontiersmen."

[2] The proclamation for the opening of Oklahoma did not come in time to permit the majority of the settlers to grow crops in 1889. The following year was an unusually dry one, not only in Oklahoma but in many of the older states. The crops failed in part or wholly, and these two successive years of meager production, coupled with the fact that many of the settlers had experienced

today prospered and contented citizens of the land which they developed. Yet there can be no doubt that the dominant class in business affairs today consist largely of those who came later, after the excitement and confusion of the first years had subsided, and conditions had attained the sober pulse and custom that prevailed in other states.

It is a matter of history that ten years wrought a great change in Oklahoma territory. The composition of the population in 1890 and at the beginning of the twentieth century was essentially different, due not alone to increased numbers but to a change in character as well. Crop failures and a prolonged financial panic were retarding conditions that prevailed throughout the first decade of Oklahoma's existence. Yet the progress of the territory continued at a rate that is nothing less than remarkable. During this period Oklahoma not only expanded territorially and in material development, but also evolved a new people.[8]

It was merely a bit of rhetoric to call

drought in Kansas and Texas before coming to Oklahoma, caused great destitution and suffering. An appeal went to Congress, which appropriated generously, and the two principal railroads through the territory furnished seed wheat to the settlers in the spring of 1891 at actual cost and waited payment without interest until the abundant harvests of 1891 enabled the settlers to pay most of their obligations.

In his special message to Congress of August 8, 1890, President Harrison reviewed conditions in the territory as follows:

"I have received, under date of July 29 ultimo, a communication from Hon. George W. Steele, governor of the territory of Oklahoma, in which among other things he says:

" 'A delegation from township 16, range 1, in this county, has just left me, who came to represent that there are at this time twenty-eight families in that township who are in actual need of the necessaries of life, and they give it as their opinion that their township is not an exception, and that in the very near future a large proportion of the settlers of this territory will have to have assistance.

" 'This I have looked for, but have hoped to bridge over until after the legislature meets, when I thought some arrangements might be made for taking care of these needy people; but with little taxable property in the territory, and very many necessary demands to be made and met, I doubt if the legislature will be able to make such provision until a crop is raised next year as will be adequate to the demands.

" 'Now I know whereof I speak, and I say there are a great many people in this territory who have not the necessary means of providing meals for a day to come and are being helped by their very poor neighbors. No one regrets more than I do the necessity of making the foregoing statement, and I have hoped to bridge the matter over, as I have said before, until the legislature would meet and see if some provision could be made.

" 'I now see the utter hopelessness of such a course, and I beg of you to call the attention of Congress to the condition of our people, with the earnest hope that provision may be made whereby great suffering may be relieved; and I assure you that so far as I am able to prevent it not one ounce of provisions or a cent of money contributed to the above need shall be improperly used.'

"Information received by me from other sources leads me to believe that Governor Steele is altogether right in his impression that there will be, unless relief is afforded either by public appropriation or by organized individual effort, widespread suffering among the settlers in Oklahoma. Many of these people expended in travel and in providing shelter for their families all of their accumulated means. The crop prospects for this year are by reason of drought quite unfavorable, and the ability of the territory itself to provide relief must be inadequate during this year."

[8] A writer in the *Forum* in 1898 says: "Most of Oklahoma's population is composed of the people whose families, pushed westward from the Atlantic coast by advancing civilization, have lived on the border for generations. The instinct to seek out new homes and fresh adventures is inborn. Other people mingling with these acquire the same restlessness." Writing in 1900 in the *Atlantic Monthly*, the same observer finds it necessary to revise many of the opinions expressed in the first article. "While during the four or five years after the rush the territory was in ill repute, and harbored many who sought temporary residence there for sinister motives, a great change has since come about. One must make over his ideas concerning Oklahoma."

Oklahoma "a place where civilization's failures are made conspicuous successes," but in the wealth of material resources with which the new state is endowed it seems that here is a land where both the weak and the strong may share in the riches that a kindly nature lavishes upon the possessors of a new country in America.

With an area of 70,000 square miles, which would mean approximately a quarter section for every one of a quarter of a million inhabitants, Oklahoma has agricultural possibilities that are unsurpassed in variety of products. From the Choctaw country in the extreme southeast to Beaver county in the northwest, the variation of rainfall is greater than in any states of the Union except California, Texas, Washington and Oregon. The altitude, variety of the soil, and diversity of natural resources are correspondingly great.

In Oklahoma, American corn, or maize, grows from Kansas to the Red river. In Oklahoma territory it was for some years considered an unsafe and unprofitable crop, but in 1905 the crop in this territory was sixty million bushels, and was increasing annually. In adjoining fields, in practically every county of the state, cotton produces an average yield of about half a bale to the acre. In the south half of the state are found the most favorable conditions for this crop. According to the report of the secretary of the territorial board of agriculture for 1906, Oklahoma stood at the head of the list of states in point of yield of cotton per acre. Cotton is an old crop in southern Indian Territory, Indian planters, with slave labor, having engaged in growing it since the tribes were removed to the west. In the newly opened counties of western Oklahoma and in what was once No Man's Land, broom corn is a staple crop, and in total production is said to be the largest crop of its kind in the world.

Oklahoma is now often called "the alfalfa state." Some years ago the hay crop was confined almost exclusively to the native prairie grasses. Clover and timothy were not grown satisfactorily. But now, especially along the fertile river valleys, the luxuriant alfalfa produces four or five crops a year, and pays high profit on the care and initial expense necessary to start this kind of grass. In both eastern and western Oklahoma, the rugged hills in spring and summer present a scene of verdure that is the more attractive because it affords pasturage to thousands of cattle. Prairie hay made Oklahoma and Indian Territory favorite grazing ground for the cattlemen before the era of white settlement.

In recent years the territories now combined in statehood have become noted for their horticultural products. Peaches, melons, and small fruits of all kinds are almost in a native element here, and both in quantity and quality are considered unsurpassed. The early explorers noted the presence of wild-plum groves and other wild fruits, and with the advent of white enterprise the orchards have become a large factor in the total value of agriculture.[4]

[4] Secretary C. A. McNabb, of the Oklahoma board of agriculture, in his report for 1906 said:

"I believe I am perfectly safe in saying that on April 22, 1889, there were not one dozen fruit trees that had been planted by the hand of man in all Oklahoma. There were, however, a few orchards on Indian reservations to the east, south and west of it, the planting of which had been induced by Indian agents and army officers. These had proved remarkably productive notwithstanding they had been somewhat neglected or at least had not received the careful consideration they probably would have received at the hands of professional horticulturists. However, the success which had attained in them and in the orchards of eastern Kansas served to spur the set-

Indian Territory brought to the state a wealth of mineral resources that places Oklahoma among the leading states in the production of coal, oil and gas.[8] Its deposits of rock asphalt are but partially developed, but promise in time to be one of the richest sources of supply of that material in the world. In the old Cherokee Nation are quarries of vari-colored marble. The most conspicuous building in Oklahoma City has been constructed of the white blocks from this source. Granite abounds in various parts of the state, incalculable beds of gypsum lie in the west, while in the Wichita mountains and in the mountainous region of southern Oklahoma deposits of iron, zinc and even gold and silver are found, and may prove profitable in time.

The coal production of Oklahoma in 1907, according to the report of the United States geological survey, was valued at seven and a half million dollars. The coal

tler to prompt action, and the work of tree planting was begun immediately after the opening. The ground on which they were planted in many instances had not been disturbed by the plow, holes being dug in the virgin sod to receive the roots of the young trees. It is needless to say to the experienced horticulturist that fully 90 per cent of the trees thus planted soon succumbed. Undismayed, the operation was repeated as soon thereafter as ground could be broken and gotten into fair condition, with more pleasing results.

"Early in the history of Oklahoma the horticultural enthusiasts met and perfected the organization of a Territorial Horticultural Society, which has been maintained to the present time, embracing in its membership many of the largest fruit growers in the two territories. This organization, in coöperation with the agricultural experiment station, has materially influenced the planting of varieties suitable to the climate and soil, encouraged the organization of local fruit shipping clubs, preached the gospel of full package of first-class fruit; and in many other ways has it contributed to the high degree of success attained in fruit culture. . . .

"Oklahoma thus early arose to distinction and prominence as a peach country, which reputation she has steadfastly maintained since that time.

"These conditions apply not alone to Oklahoma but to the Indian Territory as well. The writer has visited orchards in the Indian Territory that are the equal of anything of the kind found anywhere; peach trees set twenty-five feet apart each way, eight to ten years ago, with branches now interlacing from three to five feet, with a growth so dense as to shut out from the earth all sunlight when the trees are in foliage. There are found the oldest orchards of the two territories, but the acreage devoted to fruit in Oklahoma is considerably in excess of that in the Indian Territory, which is due to several causes, chief of which is the absence of the white man's farm holdings. Until quite recent years the titles to all farm lands were vested in the Indians, and although farmed by the white man, in but few instances did he feel justified in planting orchards on leased lands which he had no assurance of controlling when the trees were old enough to bear.

"The world-famous Elberta finds in these territories its natural environments and grows to its greatest perfection, and the major portion of the peach trees now growing are of this valuable variety. Individual specimens of fruit measuring ten inches in circumference and weighing that many ounces are not uncommon, and, too, grown on trees burdened with all the fruit possible for them to bear. Orchards of from ten to fifteen thousand trees of this variety are becoming a common sight in Oklahoma."

[8] Says State Geologist C. N. Gould:

"The new state of Oklahoma is very rich in minerals, so rich that it is excelled in the amount and variety of its minerals by very few states.

"Oklahoma has 6,000,000,000 tons of unmined coal, produced last year 40,000,000 barrels of oil, and has hundreds of gas wells, yielding all the way up to 50,000,000 cubic feet daily. Neither the coal fields nor the oil and gas fields have been developed up to anything near their capacity. The abundance of these fields insures power for many generations. Besides there is a vast amount of undeveloped water power.

"Among raw products Oklahoma has 100,000,000,000 tons of glass sand, 3,000,000,000 tons of rock asphalt, 125,000,000,000 tons of gypsum, and salt water going to waste sufficient to make 2,000 tons of salt a day. The deposits of limestone, marble, sandstone, granite, gabro, valuable clays and Portland cement material are all practically inexhaustible and are widely distributed in the state. There are also deposits of iron, lead, zinc, tripoli, novaculite and volcanic ash, all undeveloped. With this array of valuable material Oklahoma is manufacturing practically nothing. Not one per cent of the mineral resources is now developed."

fields are a broad belt, running from the north line of the state on both sides the Verdigris river as far south as Atoka, lying in the former Cherokee, Creek and Choctaw nations. The Choctaw fields are the most extensive, and in the allotment to the Choctaws and Chickasaws nearly half a million acres of coal lands were "segregated," that is, set apart from the lands that could be assigned for individual homesteads, and reserved for the benefit, under a leasing system, of the entire citizenship of the tribes. Besides this segregated area, it is estimated that an equal amount of coal underlies individual allotments, and the state geologist believes the amount of coal available in Oklahoma to be six billion tons.

The working of the oil and gas deposits in northeastern Oklahoma has produced nothing less than a stupendous transformation of that country within the past ten years. Nowhere can the power, and one might also say grandeur, of man's industry be better realized than among the forest of derricks that cover the landscape from Sapulpa to Bartlesville. In the western part of the state, the waving grain fields, the herds of cattle, and the broad prospect of agricultural prosperity cause delight and even surprise in the beholder who sees the results of civilization in producing such marvels of wealth. But the same observer, viewing the effects of a giant industry in the oil and gas fields, is possessed of awe and a reverence before the great mysteries of nature which man has unraveled. Here men have unlocked the pent-up forces of the earth, and have captured and turned into the channels of commerce a fluid wealth greater than the value of all the mines of gold in the dreams of the avaricious Coronado as he marched through this land nearly four centuries ago. The mere statement that the "mid-continent" oil fields of Oklahoma, Indian Territory and Kansas in 1906 produced 22,250,000 barrels of oil, more than the total product of any other state or any two states except California, gives no idea of what those figures really mean. In 1902 the same fields produced less than 400,000 barrels, but that marked practically the beginning of production in Indian Territory. The most convincing manner in which to compare the development of the oil industry is in noting the marvelous advance of the oil country in other ways. Ten years ago, Tulsa was a village. Today, located in the heart of the oil region, it is the metropolis of northeastern Oklahoma with ten thousand inhabitants. The atmosphere of the city fairly pulsates with the energy and enthusiasm of its enterprising people, and though everywhere are the evidences of freshness and newness, the improvements of the municipality and the commercial activities rival those of any city of its size in the southwest.

Oklahoma's inheritance from the past consists of more than lands and the riches underneath. The state government was organized on the basis of a million and a half population. Over three-fourths of this population had entered since the opening of '89. The development of Oklahoma's social community has taken place within the past twenty years. However, it would be impossible to say that the history recorded in Indian Territory during the half century before the coming of the whites left no results upon the people of today. Oklahoma has many disadvantages of the past to outgrow. The amalgamation of the Indian tribes with American civilization presents insignificant problems compared with the conditions that grew out of the existence of this alien community for

many years surrounded by states. In the surging advance of settlement westward, a vicious element has always been borne on the crest of the wave. Kansas had her reign of outlawry. The meeting of American and Spanish civilizations in Texas produced conditions favorable to crime, and border ruffianism for many years infested that state. New Mexico, Colorado and Montana all experienced the evils of frontier existence. And California was the most conspicuous example of all.

But while the frontier, under the rapid expansion during the middle of the century, receded to the Pacific, and one state after another disposed of its dissolute and open corruption, the Indian Territory remained —a stagnant pool in the midst of the bustling, self-purifying activity of American life. For years the Indian Territory offered the securest refuge for the outlawed of the nation, so that one of the strongest arguments offered for extending state lines around Indian Territory was based upon the necessity of changing the "state of semi-chaos and the farce of government" that existed in the Territory under the ineffectual federal control. "I have good reason to suspect," wrote Governor Fishback of Arkansas to President Cleveland, "that a very large percentage of the bank and train robberies which take place west of the Alleghanies and east of the Rocky mountains are organized or originate in the Indian Territory. Let me add that the refuge which this sparsely settled rendezvous of outlaws affords to criminals is a constant temptation to crime in all the country around. . . . Those criminals who find a refuge in this Territory are rapidly converting the Indian country into a school of crime."

The State of Oklahoma is even now engaged in purging itself of this vicious inheritance from the past. With the aid of efficient local governments, the era of unrestrained and open iniquity is passing, but an occasional outburst of crime of the type that has so long been associated with the southwest, serves to remind the new state of a past that is still bearing fruits.

The spectacular criminal class has but short shrift under present conditions. But a more insidious and deeply rooted evil was given life and flourishing existence under the old regime. The peculiar relations sustained by this country to the general government and the nation at large fostered a degree of moral laxity that can still be observed. Although it was a crime subject to heavy penalty since the intercourse act of 1834, the illicit introduction of liquor within Indian Territory flourished for the greater part of a century, and "bootlegging' became a real industry. The "bootlegger," even now, though regarded with contempt by society in general, has a recognized place in the "lower world," and his offense is too often tolerated if not condoned. Constant familiarity with this kind of violation of the statutes has produced, with contempt, a neglect of swift and sure punishment. This is but an instance. For years the Indian Territory was under restrictions that, in theory, made it a "forbidden country." But those who dared the violation of the laws entered and shared with little difficulty in the riches of the Indian possessions. The attitude of the government itself savored of hypocrisy and induced contempt for law. The solemn treaties with the Indians at the beginning of the century were only made to be broken, and when, one after another, they were set aside, both Indians and whites came to regard federal law as little better than hollowness. It came to be observed that selfish interests profited here and were

strong enough to defeat the quiet enterprise that claimed the protection of regular law and government. And the result of it all was a moral lesion, an undue exaggeration of the power of the individual over the guaranteed rights and privileges of the social order. The freedom to exploit the resources of a new country was carried to the point of license in obtaining all that the law of competition would allow.

Within recent years a reaction has set in against this laxity. Statehood came just at the time when this current of purification was strongest, and the result is seen in the constitution of the new state, which has been called radical and even socialistic. The spirit of reform is abroad in Oklahoma, and though, in endeavoring to correct the abuses of the past, it may bear fruit in some impractical legislation, there is no reason to assume that the final equilibrium of social and civil tendencies may not result in a splendid justice to all and license to none.

Education.

Of educational facilities, of the means of culture, and of religion, both as manifested in institutions and spiritual influence, Oklahoma entered the Union with an inheritance that in many respects equalled that of older states.

In Indian Territory was the greatest lack of educational facilities for the whole people. This was due to the peculiar conditions that attended the settlement of that country by white people. Since the location of the five tribes in the Indian Territory, the Indians have not been without means of intellectual culture. Some of the Indian schools were models of the kind. The girls' seminary at Tahlequah has long been a source of pride to the Cherokee Nation, and is a splendidly equipped institution, both as to its buildings and quality of instruction.

The wishes of the American government for the education and improvement of the Indians were expressed during the Revolution. The first treaty including an educational provision was that of December 2, 1794, with the loyal Indians, for whom one or two persons were to be employed three years to instruct in the arts of miller and sawyer. Industrial training was from the first the most sought end in improving the Indians. Training of a literary character is first intended by the government in a provision of August 13, 1803, when a Roman Catholic priest among the Kaskaskias was promised the annual sum of one hundred dollars "to instruct as many of the children as possible in the rudiments of literature."[6] This combined the support of the general government with the aid which had for many years been given by various church bodies and associations to the cause of civilization and improvement among the Indian people.

January 22, 1818, the house committee on Indian affairs reported: "We are induced to believe that nothing which it is in the power of the government to do would have a more direct tendency to produce this desirable object [civilization] than the establishment of schools at convenient and safe places amongst those tribes friendly to us." Soon afterward, on March 3, 1819, followed the appropriation by Congress of ten thousand dollars as an annual sum "for the purpose of providing against the further decline and final extinction of the Indian tribes . . . and introducing among them the habits and arts of civilization," to which end persons of good moral

[6] Sen. Ex. Doc. 48th Cong. Special report of the Bureau of Education, "Indian Education and Civilization," Alice C. Fletcher.

character should be employed "to instruct them in the mode of agriculture suited to their situation, and for teaching their children in reading, writing and arithmetic."

The policy adopted in applying this fund was, instead of establishing separate government schools, to assist the agencies already organized for educating the Indians. The two principal organizations that were working for the education of the southern tribes at that time were the American Board of Foreign Missions and the Baptist General Convention, each of which thereafter for some years received a share of the fund disbursed by the general government for Indian education.

It is interesting that the need of manual education was so early recognized by the teachers and missionaries who labored among the Indians. Many reports, almost from the time of the establishment of the Indians in the Indian country, contain recommendations for the founding of manual labor schools, as the means by which the highest objects of Indian education would be promoted. The Indian's skill in mechanical occupations was early noted. In 1848 sixteen manual labor schools were in operation among the various Indian tribes. By that time the annual appropriation of ten thousand dollars from the government had become a very small part of the total expended by the Indians themselves for educational purposes.

Among the southern Indians the Choctaws took the lead in education. The provisions of the early treaty by which the government was to educate each year a number of Choctaw boys has been mentioned elsewhere. But in 1845 the Choctaws voluntarily devoted $18,000 of their annuities for the establishment of schools, in addition to the amount set aside for that purpose by their national laws. In 1846 the Choctaw Nation was supporting three academies, besides some boys' schools and five female seminaries, the management of the schools being entrusted to denominational religious societies.

For many years the church denominational schools were the chief centers of educational influence. Such schools as Dwight Mission have a place among the permanent influences for uplift among the Indians during their tribal existence. The Presbyterians, Baptists, Methodists and Catholics were early in the field as missionaries not only of religion but of practical education. Until statehood brought with it the promise of public education, these denominational schools afforded advantages to both Indians and whites.[1] Originally they were for the education of Indian children. But with the intrusion of

[1] At the time of statehood the principal denominational schools in Indian Territory, as reported in the "Oklahoman Almanac," were the following:

The Presbyterians have Henry Kendall College at Tulsa, Wynnewood College at Wynnewood, Cherokee Institute at Tahlequah, Dwight Mission in the Cherokee Nation, Newyaka Mission in the Creek Nation, Elm Spring Mission at Welling, Park Hill Mission at Park Hill. The Baptist schools are Indian University, usually known as Bacone, at Muskogee, and the Cherokee Baptist Academy at Tahlequah. The Methodist schools are Spaulding Female College at Muskogee, Hargrove College at Ardmore and Willie Halsell College at Vinita. The Catholic schools are St. Agnes School at Antlers, Holy Name School at Chickasha, a school at both Lehigh and Coalgate conducted by the Benedictine Sisters, a school at Hartshorn and one at Krebs conducted by the Sisters of Mercy; at Muskogee are the Nazareth College and the Nazareth Academy, the former conducted by the Brothers of the Sacred Heart and the latter by the Sisters of St. Joseph; St. Elizabeth's Convent at Purcell, St. Mary of the Quapaws in the Quapaw agency, St. Theresa School at Tulsa, Sacred Heart Institute at Vinita.

the whites, whose children were largely without free schools, they were so conducted that white children were given the opportunity to share in their advantages.

Besides the church schools, and the schools established by and maintained for the tribes, the government in time established schools for the training of the Indians in the arts of industrial education. The Chilocco Indian Agricultural school is the most notable of these. A reservation of nearly nine thousand acres, near the Kansas line, in what is now Kay county, was set aside for this purpose. The school was opened in 1884, and was conducted for the benefit of Indians without regard to locality, some forty different tribes from various parts of the United States being represented among its seven hundred scholars.

For many years the white residents of Indian Territory had no school facilities, except those mentioned above, and the schools that were supported in towns by private subscription. The Curtis act of 1898, in providing for incorporation of towns in the Indian Territory, also afforded means for the citizens of these towns to establish schools and maintain them by taxation.

During the agitation for statehood, one of the strongest arguments employed against uniting Oklahoma and Indian Territory as one state was, that while Oklahoma had been provided with a generous school fund through the reserving of sections of land in every township and large grants for special institutions, Indian Territory had no fund nor source of income for a public school system, and there was no authority to require an appropriation of Indian lands or funds for this purpose. When the enabling act was passed this inequality between the two territories was relieved. The sum of five million dollars was appropriated as a dower for Indian Territory in the absence of any other school fund. This sum, though paid to the general school fund of the state, was understood as a contribution in behalf of Indian Territory.

Concerning the educational equipment of Oklahoma territory up to the time of statehood, an article written by David R. Boyd, former president of the University of Oklahoma, describes the principal features of education on that side of the state. His article follows:

"A very large percentage of those who came to take claims at the first settlement of Oklahoma, April 22, 1889, came from the disasters and disappointment of 'boom' conditions in other parts of the country to make a final effort to secure permanent homes. These people were generally intelligent and animated with the best ideals of American life. The first corollary of this condition of mind and material was that there should be some provision made for public education, and after mere shelter was provided for the family, consideration was given to what provision could be made for educating their children.

"So, before the legislature was convened or had provided a school law, almost every neighborhood had a school organization. Many of them had erected temporary structures for schools and had employed teachers with private funds. In a number of cases, the obligations incurred by these schools were formed with the intention that when the districts were formally organized, these obligations should become the debt of the districts and should be paid by them under the provisions of law, to be enacted later. Teachers' wages, cost of temporary structures, cost of furniture and appliances were all made claims against the district, and in every case, so far as I know, were

assumed and paid. I was in conversation some time since with the head of a large firm who had sold most of the school furniture to the old districts, in which he said that there was not a single case of these obligations, though having no legal standing and binding only as a moral obligation, being repudiated.

"This spirit was so strongly marked that the first legislature established by law the Agricultural and Mechanical College at Stillwater, the Normal School at Edmond and the university at Norman, on the condition that these localities furnish the site and bond themselves for sums of money—in the case of the university at Norman, amounting to $10,000. The people of Cleveland county voted favorably upon these bonds when there was perhaps not $25,000 worth of taxable property in the county.

"Later, when the second legislative assembly met, in order to keep these three institutions on their feet, it was necessary to incur the first and only bonded indebtedness of the territory, namely, an issue of $48,000 worth of bonds, $18,000 for the university, $15,000 for the Normal School, and $15,000 for the Agricultural and Mechanical College. When it became necessary to float these bonds, a citizen of the territory bought them at a small premium—I think of five or six hundred dollars—at a time when the panic of 1893 had paralyzed financial institutions all over the country and when it was impossible to sell bonds of any kind on the open market. I mention these facts to indicate the educational spirit of the public mind at the time.

"The first legislature passed a school law that provided for the usual system in the main, providing for the organization of districts, school officers, and revenue for the support of the schools. There were two unique features of this law. One was, that the territorial board of education was to consist of the territorial superintendent of public schools and the county superintendents of the counties then organized, which were Logan, Oklahoma, Kingfisher, Canadian, Cleveland, and Payne. This law remained in force until the meeting of the legislative assembly of 1893. In the meantime, the reservations of the Pottawatomie, Sac and Fox, Iowa, Cheyenne, and Arapaho were opened to settlement and eight additional counties provided for. This made the territorial board of education consist of the territorial superintendent and fourteen county superintendents, which was a very unwieldy body. It did good work, however, and was, in fact, very favorable to the organization of the schools, as it brought the person in authority of the school system into close contact with the county superintendents or those who had in direct charge the duty of organizing districts.

"Another feature of the first territorial school law was that it made the township the unit of organization of education. The township was conceded to be the congressional and not the municipal township. This provided for four districts, threee miles square with the boundaries on the half section lines. The law provided that there were to be five directors elected at large from each township. It was found therefore that one district had two representatives while each of the others had but one and that the district having two directors could combine with one of the other districts and could control the board of directors on any proposition. The building of school houses and the buying of furniture and other questions of organization were pressing, and the exercise of this authority was not always salutary and caused a great

deal of complaint. In addition to this, the school law did not provide for the issuing of bonds or other means of raising revenue for erecting buildings, so the people were obliged to erect the first buildings by direct taxation or by subscription or by both. Often school houses were erected by money, labor and materials advanced by individuals, this expenditure being afterwards recognized by the districts provided by law and such obligations always included in the bonded indebtedness and afterwards paid by the district.

"The present school law was passed by the legislature of 1893. This changed the board of education to the present board, consisting of the territorial superintendent, the president of the State University, the president of the Central Normal School, (ex officio members) with one city superintendent of a city of the first class and one county superintendent appointed by the governor. This board is charged with the duty of passing on the qualifications of persons who give instruction in any capacity in the territory. They prepare the course of study for the county normal institutes; they pass on the qualifications of instructors for these institutes; they prepare the questions for the examination of teachers for the city and rural schools; they prepare a course of study for the rural schools covering the work as high as the eighth grade, and discharge other general duties provided for by law.

"In 1896, Congress authorized the territory to lease the lands reserved for educational and eleemosynary purposes within the bounds of Oklahoma, the money to go to the schools and purposes for which they were reserved from settlement. This has been a source of great revenue for the schools, aggregating for each pupil approximately more than one dollar per year.

"The school system of Oklahoma has been found very well adapted to the conditions of the developing commonwealth. It is now apparent, however, that in the near future, important modifications must be made. Fully seventy-five and perhaps eighty per cent of the children of the territory do not have opportunities for carrying their education beyond the so-called eighth grade, or the common school. There is therefore a break in the course of study of four years. This is being rapidly met by the provisions of the schools in the larger towns for giving this work, and in many of the smaller towns two grades beyond the eighth are being given. In two counties, county high schools have been established and have met this need.

"Experience has shown that the township which was originally conceived of in the original law of the territory is the logical and natural unit for an educational system. This can now be easily planned and be freed from the objections that were made to it in the early days of the school organization of the territory which permitted a board to control the location and the development of schools in the districts as the board does in our larger towns. It would permit advancing the course of study from the eighth grade as far as the educational needs of the township would require. In many cases in the country, township high schools could be established. This would bring high school privileges nearer to the pupils in their homes than in any other way that has been devised. Transportation could be provided for pupils in sparsely settled districts. This provision has grown quite beyond the experimental stage in other states and should be incorporated in the school laws of the future state of Oklahoma.

"The limit of this article does not permit

APPENDIX.

The First State Legisature.

House of Representatives.

Democrats:

Adair, T. L. Rider, Stillwater.
Atoka, R. M. Rainey, Atoka.
Beckham, George C. Whitehurst, Sayre.
Bryan, A. F. Ross, Durant, and J. H. Baldwin, Sterrett.
Caddo, Frank Stephens, Apache, and C. C. Fisher, Hinton.
Canadian, M. B. Cope, El Reno.
Carter, Leo Harris, Ardmore, and J. F. McCance, Newport.
Cherokee, J. L. Manus, Tahlequah.
Choctaw, W. A. Armstrong, Boswell.
Cimarron, Frank L. Casteel, Jurgenson.
Cleveland, J. Vanderveer, Noble.
Coal, G. W. O'Neal, Oconee.
Comanche, J. Roy Williams, Lawton.
Craig, E. J. Hobdy, Blue Jacket.
Creek, W. D. Stone, Kiefer.
Custer, Howell Smith, Thomas.
Delaware, L. B. Smith, Grove.
Ellis, Elmer J. Jesse, Gage.
Garvin, W. M. Lindsey, Elmore, and Wm. Tabor, Hart.
Grady, Robert M. Johnson, Minco, and A. S. Riddle, Chickasha.
Garfield, A. H. Ellis, Orlando.
Grant, J. N. Smith, Manchester.
Greer, G. W. Briggs, Granite, and Dr. Pendergraft, Hollis.
Harper, J. W. Durst, Supply.
Haskell, Ed. D. Boyle, Chant.
Hughes, Edward Swengle, Wetumka.
Jackson, W. E. Banks, Hess.
Jefferson, Charles London, Hastings.
Johnston, W. H. Murray, Tishomingo.
Kay, Logan Hawkins, Tonkawa, and Q. T. Brown, Braman.
Kiowa, J. T. Armstrong, Hobart, and J. Faulkner, Manitou.
Lattimer, James E. Stivers, Wilburton.
LeFlore, Charles Broom, Braden.
Lincoln, H. M. Jarrett, Stroud.
Love, J. R. McCalla, Marietta.
Marshall, H. S. P. Ashby, Simpson.
Mayes, H. M. Butler, Pryor Creek.
Murray, M. Turner, Davis.
Muskogee, A. J. Snelson, Oktah, and Fred B. Branson, Muskogee.
McCurtain, William H. Harrison, Bokhoma.
McClain, Thomas C. Whitson, Purcell.
McIntosh, W. B. Beck, Fawn.
Nowata, Bert Tillotson, Nowata.
Ottawa, A. D. Martin, Miami.
Okfuskee, Thomas E. Wortman, Okema.
Oklahoma, A. T. Early, Oklahoma City, and W. L. Ross, Edmond.
Osage, J. B. Deyrerle, Romona.
Payne, P. A. Ballard, Coyle.
Pontotoc, Frank Huddleston, Ada.
Pottawatomie, Milton Bryan, Shawnee; W. T. Durham, Tecumseh, and W. S. Carson, Asher.
Pawnee, William Murdock, Ralston.
Pittsburg, H. M. McElheny, Indianola, and J. L. Hendrickson, Quentin.
Pushmataha, Ben Williams, Finley.
Rogers, John F. Tandy, Chelsea.
Roger Mills, Joseph Paschal, Rankin.
Sequoyah, Winchester Allen, Salisaw.
Seminole, J. B. Castain, Little.
Stephens, W. B. Anthony, Marlow.
Tillman, H. R. King, Davidson.
Tulsa, C. L. Holland, Tulsa.
Texas, E. J. Earl, Goodwell.
Washington, A. F. Vandaventer, Bartlesville.
Washita, David Smith, Cordell.
Woods, W. F. Albot, Alva.
Woodward, I. W. Hart, Woodward.
Bryan and Atoka, W. A. Durant, Durant.
Craig and Rogers, John Ezzard, Chelsea.
Comanche and Stephens, Amiel H. Japp, Lawton.
Caddo, Canadian and Cleveland, Ben Wilson, Union City.
Creek and Tulsa, W. E. Norville, Tulsa.

Johnston and Coal, C. A. Skeen, Wapanucka.
Pontotoc and Seminole, Edgar S. Ratliff, Ada.
Pittsburg and Hughes, Ben F. Harrison, Calvin.
Payne and Pawnee, George D. Hudson, Cushing.
Pottawatomie and Lincoln, H. G. Stetmund, Chandler.
Sequoyah and LeFlore, E. A. Moore, Oklodge.
Washita and Custer, L. L. Reeve, Dill.

Republican Members:

Alfalfa, W. H. H. Allen,* Goltry.
Beaver, Abel J. Sands, Knowls.
Blaine, W. H. Bowdre, Watonga.
Dewey, W. G. Smith, Seiling.
Garfield, J. M. Porter, Enid.
Kingfisher, Harvey Utterbach, Kingfisher.
Lincoln, James Lockwood, McLoud.
Logan, J. S. Shear, W. H. Chappell, Guthrie, and Herbert E. Stagner, Coyle.
Major, Joe Sherman, Estelle.
Noble, Charles Frasier, Red Rock.
Oklahoma, C. G. Jones, Oklahoma City, C. R. Day, Edmond.
Okmulgee, W. C. McAdoo, Okmulgee.
Wagoner, A. D. Orcutt, Coweta.
Alfalfa and Grant, J. B. Evans, Pond Creek.
Garfield and Kingfisher, Eugene A. Watrous, Enid.

Members of the Senate.

Democratic Members:

1st, J. S. Morrison, Hooker, and E. A. Agee, Putnam.
4th, Frank Matthews, Mangum.
5th, Thomas Moore, Oluskee.
6th, R. A. Billups, Cordell, and J. J. Williams, Weatherford.
8th, P. S. Goulding, Enid.
9th, Edmund Brazell, Lamont, and Sylvester Soldani, Ponca City.
10th, Henry S. Johnson, Perry.
11th, Clarence Davis, Bristow.
13th, M. F. Eggerman, Shawnee, and S. A. Cordell, Chandler.
14th, Roy Stafford, Oklahoma City, and W. H. Johnson, Calumet.
15th, George O. Johnson, Fort Cobb, and L. K. Taylor, Chickasha.
17th, J. Elmer Thomas, Lawton, and D. M. Smith, Duncan.
18th, J. C. Graham, Marietta, and J. C. Little, Sulphur.
19th, R. P. Wynne, Lexington, and H. S. Blair, Katie.
20th, T. F. Memminger, Atoka, and Jesse H. Matchett, Meade.
21st, E. T. Sorrells, Milton.
22d, H. S. Holman, Wetumka.
23d, R. M. Roddie, Ada.
24th, W. P. Stewart, Antlers.
25th, W. M. Redwine, McAlester.
26th, W. M. Franklin, Madill.
27th, E. E. Brook, Muskogee, and Campbell Russell, Warner.
28th, P. C. Conn, Gans.
29th, J. M. Keys, Pryor Creek.
30th, E. M. Landrum, Tahlequah.
31st, J. P. Yeager, Tulsa.
33d, J. H. Strain, Wann.

Republicans:

3d, A. E. Updegraff, Fair Valley.
7th, R. S. Curd, Aline.
12th, Harper S. Cunningham, Guthrie.
16th, Emory D. Brownlee, Kingfisher.
32d, H. E. P. Stanford, Okmulgee.

*Unseated.

Composition of Population in Indian Territory.

Some interesting lights on the composition of the population of the old Indian Territory portion of Oklahoma are afforded in a study of the nativity of the 749 persons included in a biographical work on the Territory published in 1901. The persons represented were from nearly every section of old Indian Territory, were mostly heads of families, and "representative citizens." It is fair to say, therefore, that the deductions drawn from a study of this group of citizens would be quite an accurate index of the nativity of the people who then composed the Territory's population, the better and more substantial classes being under consideration.

It may be safely assumed that the average age of the persons considered was at least thirty years, hence some opportunity is offered for drawing inferences in the fact that out of the 749 persons, 198, or more than 25 per cent, were born in Indian Territory. Of these 198, only a comparatively few were fullblood Indians, hence it appears that the fusion of blood had taken place not later than the decade of the sixties in the case of those who were of the mixed type; or on the other hand, the pure whites among the 198 natives belonged to families that had intruded in the Territory, in the majority of instances, soon after the war. The mere fact that over one-fourth of the whole number of persons represented were born in Indian Territory is remarkable, when we consider the persistency of the belief among the average Americans that Indian Territory has been occupied by civilized people during only the last few years.

Next of interest aside from the consideration of the natives of Indian Territory are those who came from the adjacent states. Texas furnished the largest quota of her natives, and it should also be said that a large number of those under consideration, though natives of other states, had resided in Texas before moving into Indian Territory. Of the 551 citizens not natives of Indian Territory, 74 were natives of Texas, 40 of Arkansas, 39 of Missouri, and 15 of Kansas. Thus nearly a third of those not natives of Indian Territory were born in the contiguous states. Of the total of 749, 332 were born in states east of the Mississippi river or in foreign countries. Eight were born in Canada and eleven in foreign countries.

That the citizenship of the old Indian Territory was composed largely of southern stock is proved in the figures showing that 607 of the total number considered were born in southern states, including, for this estimate, Indian Territory. Of the immigrants to the territory, 409 were of southern nativity, against 142 from northern states and foreign countries.[1]

Editorial Comment on Statehood and the Constitution.

As an extreme example of the editorial and news comment on the constitution that went the rounds of the press in opposition to the fundamental laws of Oklahoma, is an editorial that appeared in the Cincinnati *Enquirer* of July 10, 1907. It shows both partisanship in opinion and lack of first-hand information as to real conditions, but now that the questions involved have been settled, it is an interesting expression of the manner in which the constitution was opposed before the instrument was submitted for the approval of the people. The editorial is as follows:

Unless the work is done by some person who has little else to occupy his mind the Oklahoma constitution seems to be beyond the bounds of analysis and explanation, except to say that it is

[1]The nativity of the 741 persons above considered is shown in detail as follows:

Indian Territory	198	New York	6
Texas	74	Louisiana	6
Tennessee	52	England	5
Mississippi	51	Michigan	4
Arkansas	40	New Jersey	3
Missouri	39	Maryland	3
Georgia	38	Ireland	3
Alabama	35	Vermont	3
Kentucky	31	Wisconsin	2
Illinois	25	California	2
Indiana	20	West Virginia	2
Virginia	19	Scotland	2
Kansas	15	Minnesota	1
North Carolina	14	Germany	1
Pennsylvania	11	India	1
Canada	8	Switzerland	1
South Carolina	7	Spain	1
Iowa	6		
			749

a miserable botch, seemingly put together at haphazard by cowboys, "squaw men" and adventurers from the states. A few editors have undertaken to comprehend and dissect it. If they are right in their conclusions—and they do not seem to be moved by prejudice—Oklahoma should not be admitted as a state until it has an intelligent and respectable organic law. The main object of all that has been done in the proposed combination of Oklahoma and Indian Territory for statehood is the booming of a few upstart carpetbaggers for the principal offices in the proposed new state. If President Roosevelt could be justified in any of the acts of domination and bossism with which he has been charged it would be in simply ignoring or dictatorially overthrowing the work of the Oklahoma constitution makers and remitting the unprepared territories to an organization wholly under the control of the federal government and leaving them to remain in a territorial condition until Congress takes serious hold of the situation.

There are many excellent and highly qualified people who have grown up with the territory, but in anticipation of statehood the territories seem to have been overrun by a lot of scalawag politicians from the states, who are up to all the tricks and who are reaching out for the best places in the public service, for which they are wholly unfit.

Added to this disadvantage is the conferring of citizenship on Indians and half-breeds, who are tolerable only because they are a little past the war dance and scalping stage of savagery. It was a great mistake to make this combination of Oklahoma and the Indian Territory. The people of the United States have still a great many "wards" who are not fit for any sort of citizenship. The association of the half-civilized with the white scalawags who are bent only on their own profit would make trouble even if the proposed new state had a sound and conservative constitution.

One writer says: "This foolish document delimits counties and districts. It leaves absolutely nothing to the people either now or in the future with respect to this matter. Yet everybody knows that a few years may see the counties and districts which are now given prominence at the lowest degree in the progress of the state, and other counties and districts which are now at the bottom raised to the top. This has happened so often in the history of the various states that Oklahoma positively makes itself ridiculous by trying to stop the hands on the dial plate of history. The most amusing part of this business is that the proposed constitution is voluminous on the subject of initiative and referendum, and yet it takes out of the hands of future voters for perhaps half a century to come anything like an independent action on their own part with respect to the affairs in which they are certain to be most interested."

This is only a little of the current indictment of the new state scheme. It is doubtful if the new constitution guarantees a republican form of government. It smacks of an oligarchy. It looks like a protectorate of upstarts who think that government is an institution for the promotion of private fortune.

There is no great demand in the country for the immediate admission of Oklahoma and Indian Territory. They would get along very well in a territorial condition for many years yet. The fellows who expect to get the pickings are the only ones who are in a hurry to add another star to the flag, with a "coopered-up" and unstatesmanlike organic law. Arizona and New Mexico have been kept out on account of a union that would violate primary principles and make the people forever unhappy. There is no more necessity for expedition in the case of Oklahoma and Indian Territory.

The states have rights, the most of them paramount. The territories are under the direction of the federal government. Congress and the president should be not only cautious but defiant and severe.

The Oklahoma Constitution.

It has been rumored for several weeks that Speaker Cannon and other leaders of the national Congress were anxious to have the new Oklahoma constitution rejected by the president. The rumors have all centered about their alleged desire to keep Oklahoma out of the Union at least until after the next presidential election, so that its votes, which will certainly be Democratic, will not count at that time. The various reasons for rejecting the constitution which have been mentioned have all been stated incidentally, and there has been nothing to indicate that the objections went to the merits of the constitution itself.

It is not pleasant to credit any men in public life with purposes such as make the substance of these rumors, and it is all the more surprising that the rumors continue, since for the success of the plan there is involved the acquiescence of President Roosevelt in the scheme, and the president, as is well known, was a strong advocate of the admission of the territory.

It is true that the constitutional convention debated many articles which would certainly be of doubtful permissibility in a state which must adhere to republican forms of government if it is to be a member of the Union. The president himself warned the members of the convention that if they proposed to withdraw from the railroads the rights of protecting their own property which

other citizens and corporations enjoyed, then he could not give his approval. But the offending clauses were omitted and the danger of rejection thereby removed.

Since then we have been told in the main that the constitution is faulty because it includes numerous rules and regulations which are rather subject matter for legislative than for constitutional regulation. That may all be very true on a theoretical basis, but if the people of Oklahoma desire to have these matters safeguarded in their constitution certainly that is nobody's business except their own, and certainly it does not make their constitution any the less of a republican nature.

The tendency to more elaborate constitutions has been very marked throughout our history. The Illinois constitutions indicate it to some extent, though many other states have far outstripped us in this respect. In our statute book, while the federal constitution occupies six pages, the Illinois constitution of 1818 occupies nine, that of 1848 sixteen and that of 1870 twenty-four pages.

It is to be hoped that such rumors as are now current will promptly come to an end, for it is inconceivable that the president will reject the Oklahoma constitution on any such grounds as are suggested. If there are radical defects in the constitution, that of course will be another matter.—Chicago *Record-Herald*, May 5, 1907.

Oklahoma's Radical Constitution.

The constitution recently adopted by the people of Oklahoma and the Indian Territory for the new state of Oklahoma is a document illustrating the changing political order. Quite irrespective of its merits it reflects admirably many characteristic tendencies of the day. The common suspicion of corporation management and fear of corporate wealth, the more or less prevalent distrust of representative government and even of the judiciary, the growing belief in the effectiveness of pure democracy, the resentment against the saloon element and its political activities, are all embodied in its provisions. Indeed, the constitution as originally drawn was regarded by the convention leaders as providing so nearly a pure democracy that they feared it might be rejected by President Roosevelt on the ground that it contravened the federal constitution's guarantee to each state of a republican form of government. Accordingly by amendment they restored to the legislature some of the power of which originally they had deprived it. But as it stands today the constitution is undoubtedly the most radical organic law ever adopted in the Union. Some of its provisions were suggested by Mr. W. J. Bryan in a letter to the constitutional convention, and its general tenor may perhaps be inferred from Mr. Bryan's assertion later, in a speech at Oklahoma City, that it was the best state constitution ever written. The disclosures of recent years regarding the illegitimate methods of managers of great corporations evidently had deeply impressed the members of the convention. They deliberately set out to curb what they called the "incursions of predatory wealth"—especially those of stock-watering and monopolistic oppression. The most stringent measures were adopted to guard against these evils. A corporation commission was created, to be composed of three elective members. To this commission were granted large powers to compel the fullest publicity in corporation affairs, and to regulate the charges of public service corporations. Over-capitalization was forbidden, and a section was framed to prohibit the consolidation of incorporated concerns. Even should one corporation come into control of another to satisfy a debt, it must divest itself of the ownership within a specified period. An anti-discrimination provision was adopted intended to prevent a corporation from "clubbing" a competitor out of business by a temporary reduction in prices in a restricted field. It directs that no concern shall, "for the purpose of creating a monopoly or destroying competition in trade," discriminate between persons or communities by selling at different prices, after making allowance for the cost of transportation. The state is expressly empowered to engage in any industry. This was intended to overcome the difficulty which Kansas encountered when it attempted to operate an oil refinery in its fight with the Standard Oil Company. The common law relieving the employer from liability to employes through the carelessness of a fellow servant is abrogated, and the first legislature is directed to enact laws protecting employes. In various states the amount of damages recoverable from a corporation in the event of injury or death is limited by law. The Oklahoma legislature is forbidden to establish any such limitation.

Toward the commonly accepted theory of representative government the convention's attitude was profoundly distrustful. Its suspicion of legislatures appears in the enormous mass of detailed instructions to future general assemblies with which it encumbered the organic law. On the positive side it expressed its belief in the people by establishing the initiative and referendum throughout the state, including municipalities and other subdivisions. A petition of eight per cent of the voters may submit a proposed law to the people, and one of fifteen per cent a proposed constitutional amendment. A law enacted by the legislature may be referred to the people by that body, or by a petition of five per cent of the voters. On

the result of a vote by the people the governor may not exercise the veto. Similar provisions, as has been said, are extended to the minor political divisions of the state, and in cities franchise grants must be submitted to popular vote. Lest these provisions make the constitution unrepublican, the convention inserted an authorization to the legislature to repeal any law, on the assumption that it never would venture to tamper with a measure enacted by the people. To carry out further the democratic idea the legislature is instructed to enact laws for a mandatory primary system for all officers, including United States senators. What is perhaps another instance of this same distrust of the people's agents manifested itself, too, in the provision that in orders of injunction and restraint persons charged with contempt for an act not committed in the presence of the court should be punished only on a verdict by a jury. Such a procedure has long been generally favored by organized labor. The congressional enabling act required that the liquor traffic be prohibited for twenty-one years in that part of the new state comprised within the old Indian Territory. Because of this requirement the voters of the Indian Territory united with the Oklahoma Prohibitionists to impose prohibition upon the whole of the new state for the twenty-one-year period. State-wide prohibition was submitted apart from the constitution, and while the returns were slow in coming in, the provision seems to have carried. Of the other multitudinous provisions of the constitution it may be noted as odd that so radical an instrument should have restricted woman's suffrage to school elections. Two-cent railway fare is established unless the rate should prove confiscatory on any line. The governor is elected for four years and is ineligible to immediate reëlection. To guard against interference in politics, corporations are forbidden to contribute to campaign funds.

Undoubtedly the constitution is open to serious criticism. In his recent visit to Oklahoma Secretary W. H. Taft censured the work of the convention as strongly as Mr. Bryan had commended it. His first objection was that the constitution was a code of laws rather than a constitution, and that it was excessively complicated. When it is recalled that the document contains nearly fifty thousand words, and that it goes into minute detail—it even establishes the flash test for kerosene—the justice of the criticism is obvious, though its importance may be overestimated. Most of Mr. Taft's other objections the friends of the constitution would maintain are subjects for legitimate differences of opinion. He feared that the initiative and referendum might prove dangerous because of the large illiteracy of the people in the Indian Territory and their lack of previous political experience. He believed that the prohibition of the consolidating of corporations might hinder the state's growth, and that the jury trial for contempt cases was unwise. Further, he objected to the legislative districting of the state by the constitutional convention, which was overwhelmingly Democratic, and which carried out a flagrantly partisan gerrymander. In addition criticism has been made of the elective corporation commission as likely to fall far short of the expectations of its projectors. Time alone, however, can show to what extent the constitution will prove workable, and whether those of its provisions which undoubtedly are admirable in intention will fulfill the purpose of their framers. The organic law thus adopted has been submitted to President Roosevelt to decide—in a purely judicial capacity, as provided by law—whether it complies with the provisions of the enabling act and of the federal constitution. The president last week indicated his intention to decide this question in the affirmative, and he will accordingly by proclamation announce the entrance to the Union of the forty-sixth state. Officers for the new commonwealth were voted on at the election at which the constitution was adopted. The Democratic state ticket was elected.—The Outlook, Oct. 5, 1907.

The Added Star.

After eleven years the flag gains another star. The celebration of the adoption of the declaration of independence 132 years after the historic meeting in Philadelphia will have no feature so notable as this. A new state has been in existence for several months. But the formal recognition of its advent into the Union by representation upon the flag of the nation dates from July 4, 1908.

The wondrous story of Oklahoma has been told and retold. Its marvelous development within a score of years has no parallel in the annals of mankind. Not the last of the territories possibly to be included within the "union of states none can sever," it will be counted the last illustration of the migration of peoples for which the United States has been noted.

Partly southern and partly western, it has taken to itself the best characteristics of both sections of the country. In many of its features it follows the life of its geographical zone. In others it is dominated by influences from the western north. The combination of forces gives it an individuality and a strength for which other commonwealths have found substantial basis in a storied past.

The wise policy which discouraged holdings of more than one hundred and sixty acres has made it a state of homes, peopled by a strong, vigorous and self-reliant citizenship. These homes dotting

the landscape and quickly recognized as the dominant feature of the environment have made it essentially a democratic and prosperous state. The people rule in Oklahoma as they do nowhere else in such marked degree.

The constitution adopted for the commonwealth attracted much attention because of its so-called radical provisions. But these sections only reflect the ideas of the time. In a measure every constitution does that. If the ideas are wrong the constitution will be changed when the errors are discovered. If they are right and stand the test of time they will remain as fundamental principles of statehood.

It is a bright star which is given a place as the forty-sixth in the galaxy. Many of those who watched the republic when it began its career back in 1776 feared lest the extent of its territory might prove its undoing. Many thoughtful men shrank from the accession of a limitless domain in 1803 lest the balance of power be lost to the eastern states. No better evidence of the substantial strength of the nation confronts the people as another birthday of the country is celebrated than the general contentment with which every one regards the addition of Oklahoma's star to the flag of the United States.—Chicago *Tribune*.

Oklahoma's Statehood.

The admission of Oklahoma to the union of the states will be hailed with satisfaction on every hand. Its period of probation has been well occupied. It has gathered a population of earnest citizens who have come from many of the older commonwealths to share in the fortunes of the newest child of the republic. Its rich agricultural regions have been occupied by a multitude of small holders whose homes are to be seen everywhere as a conspicuous feature of the landscape. That it will quickly take its place as one of the important states of the southwest no one doubts.

Larger in its area than that of thirty-one other states, almost fifty times the size of Rhode Island, it has an imperial domain capable of sustaining a large population in comfort. If comparison of the present population were made with that of many other states at the time of their admission it would be seen that Oklahoma far outranks some of those now most famous. Ohio, and Indiana, and Illinois were admitted to the Union with a population insignificant in size when compared with that of Oklahoma today.

Oklahoma's admission comes in response to a widespread sentiment that it is ready and worthy of statehood. There is no shadow of fear for the future when the temporary boom has lost its force. There is to be no transition period in which the new commonwealth will suffer from the acts of picturesque outlaws such as those who marked a former generation on the border. The first excitement about admission to the Union being over, Oklahoma will settle down to a quiet career as a representative western community, rich in the strength brought to her by her immigrants from many an older commonwealth.

One of the most interesting features of the situation is furnished by the Indians. Many years ago, when they were transferred from the southern states, the leading tribes which have inhabited Indian Territory were promised in solemn agreement that for all time to come there should be no further encroachment from the whites. Their new home beyond the Mississippi should be for them and their descendants forever. The language was explicit which declared that this region should never be brought within the boundaries of any state.

Andrew Jackson and his contemporaries never dreamed that the banishment from Georgia, Alabama and Mississippi meant settlement upon a tract of land some day to be valuable to other whites for its rich soil and its richer deposits of mineral stores. Their vision did not pierce the future. Their language was the hasty writing of a day, with little thought of a future when descendants of southern whites and settlers from the northern states as well might covet the Indian lands once more.

Because of its area, the size and character of its population, the quiet conditions under which it secures statehood, and the peculiar element furnished by the Indian portion of its people, the admission of Oklahoma is a notable feature of the country's history for the year. Taking its place as entitled to equal privileges with the oldest of states, it calls attention once again to this peculiar American provision, in accordance with which one after another territories have been admitted to a share in the glory and sovereignty which the original thirteen won when the Union was established. —Chicago Record-Herald.

The Making of a State.

The admission of Oklahoma to the full responsibilities of American statehood on Saturday, November 16, 1907, makes the date one of the most memorable in American history. Something more than local pride shows itself in the fullness with which the people of the new state itself display their deep appreciation of the meaning involved. Their processions, their salutes of artillery, their demonstrations of overflowing enthusiasm are not mere boasts of their own achievements in creating a new commonwealth which in seventeen years, since the organization of Oklahoma as a territory, they have built "from the ground up" into great-

ness above that of some states which had a hundred years the advantage of them in the rights and privileges of membership in the Union. Deeper and higher than any spirit of local pride is the appeal they make to the United States and to the world to recognise that instead of being effete the principles of American greatness out of which their results come find in such results their vindication on November 16, 1907, as fully as it could have been hoped for at Philadelphia on July 4, 1776.

The country still remembers as if it were only yesterday what seemed to be the wild confusion of the first rush across the Kansas line into what was then a wilderness. If any one then did not understand that controlling all other motives in this confusion was the impulse to be first at the front in using the last chance to build up an American commonwealth, that impulse explains itself now in the change of the wilderness into one of the greatest productive areas of the country, with scores of thriving towns and cities, equipped for a growing civilization based on equal opportunity under the law and equal responsibility before the law. Within less than thirty days it was to this that the wild, the magnificent, the apparently lawless rush had reduced itself, and it is through this great evolutionary force of American progress that all subsequent results have been reached as they now appear in vindication of American impulses of constructiveness.

Having plowed out and harrowed out these results from the bare ground in half a generation, the million and a half of Americans who are now in full control of their own future appeal through their enthusiasm of the present to more than eighty million other Americans to put their full confidence for the future in the creative freedom of action for all good purposes which makes this new state, the last built up out of the soil of continental America, great as an illustration of what the same impulses, the same rights, the like energies mean for all in the results of the past as these force open the way for the greater results of the future.

Missouri, which opened the first highway into the territory of the new state; Kansas, Arkansas, Illinois, Iowa, Texas and other states, which supplied it with the builders of its greatness, cannot fail to share the enthusiasm Oklahoma itself feels in such a demonstration that the way is still fully open for progress. As there has been no greater single demonstration yet given in American statemaking than this, so there has been no other occasion calling for fuller strength of confidence in the principles of progress, the equal opportunity, the equal responsibility, which, as they find standing room and working room on the bare ground, build greatness out of it.—St. Louis Republic, Nov. 17, 1907.

Payne and Oklahoma.

In all that has been written upon the joyous occasion of Oklahoma's admission to the union of states comparatively little reference has been made to Captain David L. Payne, the "Father of Oklahoma." To this dauntless spirit, this typical pioneer, is due more than to any other man the splendid realization of the dreams for complete development of that "Land of the Fair God" to which he devoted much of his life. It is regrettable that Payne did not live to enjoy the full consummation of his plans, but he did live to see himself fully vindicated. There is no doubt that the future years will hold his name in higher honor than now, and that a proper estimate will be given the great work that he did.

Captain Payne, as described by M. W. Reynolds, was "a typical boomer, big-brained, big-hearted, broad-breasted and broad-shouldered. He was built to carry a great burden of responsibility. He was as brave as a Numidian lion." There are many men living today who retain vivid impressions of this remarkable man—for he was remarkable, and held his place with Kit Carson, Wild Bill, California Joe, General Custer and other noted westerners. But Payne was greater than any of them in one thing—he had a great purpose which, considered in the light of time, was almost monumental. He dreamed of a new empire of surpassing richness. He knew the territory of the present Oklahoma as a man knows his own dooryard. For years he roamed over it and repeatedly conducted pioneers into it, only to be removed time and again.

Like some other early explorers of the west, Captain Payne was a man of considerable education and native refinement. That he was well acquainted with the affairs of civil life was shown by the fact that he was elected to the Kansas legislature from Doniphan county, and later from Sedgwick county, "serving his people faithfully and satisfactorily." He was also postmaster of Leavenworth at one time. But the call of the wilderness possessed this sturdy man, and he lived for his ambition. Hunting and scouting were merely means to an end. Captain Payne in his imagination pictured the Oklahoma of today, the state of splendid cities and unrivaled richness of soil and prosperous farms. In the early days of his campaign for the opening of Oklahoma he made many speeches in Wichita, Arkansas City, Caldwell, Winfield and other southern Kansas cities, in which he told of the greatness that was to come. Some of his hearers received these prophecies as the utterances of an unbalanced enthusiast. But many others knew Payne to be a

man of sound sense and judgment. His followers were numerous and he tried repeatedly to establish colonies.

The memory of Captain Payne will linger long, and the new state will some day give his name that high place it deserves. Just now his services are somewhat obscured by the horde of claimants for pioneer honors, but time will separate the wheat from the chaff and will link Captain David L. Payne's character and work imperishably with the origin and development of Oklahoma itself.—Kansas City *Journal*, Nov. 17, 1907.

Oklahoma Historical Society.

The Oklahoma Historical Society had its origin with a meeting of the editors of the territory at Kingfisher, May 27, 1893. The following members of the association were present:

Frank Greer, Guthrie State Capital; W. P. Thompson, Guthrie *News;* Frank Prouty, Guthrie Real Estate Exchange; John Golobie, Guthrie *State Capital;* E. E. Brown, Oklahoma City *Times-Journal;* Frank McMasters, Oklahoma City *Gazette;* Mr. Pitts, Guthrie *Leader;* J. B. Campbell, Hennessey *Clipper;* Reub Weesner, Hennessey *Democrat;* J. E. Quein, Edmond *News;* Mr. Owen, Edmond *Sun;* H. B. Gilstrap, Chandler *News;* Miss Effie Gilstrap, Chandler *News;* C. E. Hunter, Okarche *Times;* Mr. Hummer, Okarche *Times;* C. F. Cook, Cloud Chief *Sentinel;* J. L. Admire, Kingfisher *Free Press;* Frank Purcell, Kingfisher *Times;* W. P. Campbell of Kingfisher.

In the course of the proceedings W. P. Campbell stated that it had been his humble privilege to attend a meeting of Kansas editors at Manhattan on the 9th day of April, 1875, and aid in establishing the society which had preserved the newspapers of that state; that he hoped this meeting would do something to perpetuate its memory for all time. He therefore moved that the editors of Oklahoma form a Historical Society for the purpose of collecting and preserving files of all publications of Oklahoma and Indian Territory, and such other matters that may be deemed worthy of preservation for the future historian. The motion prevailed, and Mr. Campbell was chosen custodian.

Two days after the editors adjourned the following "Circular No. 1" was issued and sent broadcast, especially among the press:

Kingfisher, Okla., May 29, 1893.

At their annual meeting in this city, May 27, the editors of Oklahoma created a department in connection with the association, to be called the Oklahoma Historical Society, of which the undersigned was selected as secretary and custodian to serve for the ensuing year.

The object in establishing this department is the collection of newspapers, books and periodicals, productions of art, science and literature, matters of historic interest, etc. It is especially desired that publishers send regularly two copies of their publications, to be filed, and bound at the end of each year.

While this is designed as an Oklahoma institution, anything of the nature suggested will be thankfully received from any source, and will be given a proper place among the exhibits.

For the present, headquarters will be at Kingfisher, where a suitable building has been secured for the storage, safe care and proper exhibition of contributions.

Those feeling an interest in laying the permanent foundation for one of the most important institutions of Oklahoma are requested to forward as early as possible and as often as they secure them any articles that may seem of historic interest, beautiful, instructive or curious. Address, prepaid,

W. P. CAMPBELL,
Historical Custodian,
Kingfisher, O. T.

The first official recognition is contained in Governor Renfrow's message to the legislature of 1895,, which reads:

"During May, 1893, the Oklahoma Editorial Association established a bureau known as the Historical Department of the Oklahoma Press Association. The special object of this bureau is the collection and preservation of newspapers and other publications of the territory, views, reports

and general matter which may prove of information and historic interest. Mr. W. P. Campbell, the custodian, reports quite successful results from the work thus inaugurated. He has now, practically, files of all territorial publications, including those which have been suspended or been merged. The importance of collecting and preserving inviolate this great source from which the future history of Oklahoma may be read and written, is a subject which ought to demand the attention of the legislature to secure the permanency of such a bureau."

The next official recognition was through a concurrent resolution of the legislature of 1895 ordering a sufficient number of public documents of the territory to enable the custodian to make exchange with the various states and territories for like documents, and under this resolution the documents for that year were furnished. Up to this time, and subsequently until moved to Norman, the collection was furnished a room in the Kingfisher county court house, through the kindness of J. B. Campbell, then register of deeds of that county, and the work of making the collection and caring for it, including expenses, was met by the custodian.

A meeting of the editors of the territory had been called at Perry for February 13, 1895, with a view of procuring a charter and going before the legislature for aid in prosecuting the work of the society and maintaining its collection. However, on January 16th preceding this meeting, members of the faculty and students of the University at Norman, and citizens of that town, organized "The Oklahoma Historical Society," with a like purpose as that of the Press Association Society, and January 21st procured a charter. The Norman people went at once before the legislature asking recognition, with Norman as the seat of their society. Under an agreement that the society should be maintained forever without aid from the territory, a bill passed the upper house, but before it passed the lower house the editorial meeting at Perry came off. At this meeting the collection was assigned to the custodian and he was placed at liberty to take such action as he deemed necessary under the premises. A compromise was thereafter effected whereby the collection was to be moved to Norman, and an appropriation asked with which to maintain it the next two years, and the editors should forever have a controlling membership on the board. Under this compromise a bill passed both houses of the legislature and became a law, creating the Oklahoma Historical Society as the trustee of the territory, and carrying with it an appropriation of $2,000. The collection was at once shipped to Norman and formed the nucleus of the present collection.

The statute creating the society as trustee of the territory was approved by Governor Renfrow, February 21, 1895, and provides that the society shall be the trustee of the territory, with a board of directors to consist of as many members as the society shall determine.

July 10th, after the collection had been moved to Norman, Mr. Campbell retired as custodian, succeeded by W. T. Little, who, as a member of the legislature, had been influential in securing the appropriation. Among the many valuable accessions during Mr. Little's custodianship were documents pretaining to Cimarron Territory.

The crowded condition of the university building at Norman made new quarters for the collection necessary. The legislature of 1901 provided for the removal of the col-

lection from the university at Norman. In accordance with this enactment the board, at its annual meeting in June, 1901, authorized the executive committee to accept an offer made by the board of directors of the Carnegie Library building at Oklahoma City. On the first of January, 1902, the collection was moved to the Carnegie Library building, in fire-proof rooms. For the first eight months after the removal Sidney Clarke acted as custodian of the society.

On the retirement of Mr. Clarke, April 1, 1903, Mrs. Marion Rock, Carnegie librarian at Oklahoma City, was appointed custodian and served until June 1, 1904, when, after an absence of nine years from connection with the society, W. P. Campbell was appointed custodian, and is still serving.

The Historical Society, which at this writing has temporary quarters, will on the completion of the remodeled Carnegie Library, be assigned a room on the ground floor of the new building. The society, being now under the auspices of the new state, has a future of large usefulness before it. Because of its various removals, the lack of systematic co-operation from the territory and state, and other patent causes, the progress of the society has been interrupted and it is now only fairly started upon the work which it will perform for the benefit of the state. Owing to the diligence of the custodian, the collections of newspapers are fairly representative of the press history of the state and territory. As a working reference library, the collection of books and pamphlets is far from complete, a condition that can be excused when the difficulties under which the society has labored are understood. A good beginning has been made in gathering archeological data and material for local history, a field that has rich possibilities especially in the eastern half of the state. With the rapid advance of white men's civilization over the old Indian country, it would seem that the personal representatives of the old aboriginal stock will decrease in number, and the records of their civilization and life will be lost unless care is exercised to preserve such material during the next few years. While the collection of newspapers and other contemporary documents insures a complete record of the present history of the state, it remains a duty of the state, through this society, to direct the work which will search out the records of the past.

Mr. W. P. Campbell, who deserves the principal credit for the collection and maintenance of the materials belonging to the Historical Society, became an Oklahoman with the opening of the Strip in 1893. For a number of years he was engaged in newspaper work, and has held a few official positions, including register of deeds of Pottawatomie county, Kansas, 1884-89, and deputy register of deeds of Kingfisher county, Oklahoma, 1892-94. Mr. Campbell is a native of St. Joseph, Mo.

Early Chronicles of Oklahoma City.

To a letter, dated November 6, 1889, commending the military administration in the city, are signed a number of names that are of interest as indicating a considerable part of the business population of the early town and also the then dominant element in control of the city government, since the majority of the signers evidently were "Seminoles." The list follows:

James Richardson, wholesale lumber.
Davidson & Case, wholesale lumber.
Union Lumber Mills Co., wholesale lumber.
Ft. Scott Lumber Co., wholesale lumber.
Carey Lombard Lumber Co., wholesale lumber.
Oklahoma Bank, T. M. Richardson, vice-president.

Bank of Oklahoma City, Wallace, vice-president.
Citizens' Bank, L. A. Gilbert, cashier.
Merchants' Bank, C. S. Warner, cashier.
Dowden, McGlinchey Mer. Co., wholesale grocers.
W. H. Harper & Co., wholesale lime.
Adolph Newman, wholesale flour and feed.
Pimm & Banks, wholesale furniture.
Winningham Bros., wholesale hardware.
Wand, Aucker & Co., wholesale drugs.
G. A. Beidler, postmaster.
Palace Clothing House.
J. W. Johnson, attorney.
Brogan & Son, wholesale produce.
J. S. Richardson, M. D.
H. Overholser, president Board of Trade.
Oklahoma *Journal*.
A. W. Dunham, agent Santa Fe railroad.
Victor Sherman.
Gilpin & Frick, hardware.
Walker Bros., furniture.
C. Hart & Son, produce dealers.
O. A. Mitscher, dry goods.
I. C. Grater, boots and shoes.
J. M. Hobson & Co., drugs.
Pettyjohn & Co., dry goods, etc.
J. H. Wedemeyer & Co., dry goods, etc.
White & Wright, grocers.
G. A. Mitchell, dry goods.
W. J. Pettee & Co., hardware.
E. J. Holmes, hardware.
George W. Massey, coal.
Sidney Clarke, Jr., flour and feed.
H. S. Summers, flour and feed.
John A. Blackburn, city recorder.
Sidney Clarke, president city council.
Dr. L. W. Benesse, physician and surgeon.
Frank McMaster, editor *Daily Gazette* "(who claims to know the situation and know it well)."
J. E. Jones, city council.
Hulet, police judge.
Ledru Guthrie, city attorney.
W. C. Wells, city councilman.
D. A. Harvey, United States circuit court commissioner.
W. L. Couch, mayor.

The Board of Trade was an influential organization of business men during the early months of Oklahoma City's history, and was among the first of the organized associations. It originated in the real estate office of Carter, Woodford and Beard, at the corner of Grand and Broadway, where a few promoters discussed the subject on the evening of May 15th, and issued a call for a general meeting to organize a board on the following Monday evening, May 20. Complete organization was not effected, however, for nearly two weeks. The first officers and the membership of the committees were a personnel very representative of the progressive business element of the city during its first year. The first president was H. Overholser, James Geary, vice president; J. P. McKinnis, second vice president; W. H. Ebey, secretary; T. M. Richardson, treasurer. The membership of the various committees were:

Executive—John A. Blackburn, O. H. Violet, B. N. Woodson, W. L. Couch, C. W. Price, W. C. Wells.

Railroads—J. A. Blackburn, C. W. Price, W. H. Ebey, T. M. Richardson, Gen. J. B. Weaver, J. E. Jones, W. L. Couch, H. Overholser, James Geary.

Manufacturing—C. P. Walker, John Wand, W. L. Killbrew, W. L. Harvey, E. W. Sweeney, F. L. Bone.

Transportation and Freights—J. P. McKinnis, A. L. Woodford, J. P. Darling, John Brogan, A. L. Frick, W. J. Pettee.

Advertising—O. H. Violet, R. Q. Blakeney, W. H. Ebey, H. W. Winn, J. W. Beard.

Legislation—Gen. J. B. Weaver, O. H. Violet, Capt. A. B. Hammer, Ledru Guthrie, Sidney Clarke, W. L. Couch A. C. Scott, B. N. Woodson, David A. Harvey.

Finance—James Geary, W. C. Wells, Ledru Guthrie, T. M. Richardson, Maj. W. A. Monroe.

Education—A. C. Scott, R. R. Connella, C. A. Galbraith, G. A. Beidler, W. W. Witten.

Emigration—Victor Sherman, G. W. Massey, W. H. Darrough, G. W. Adams, H. W. Sawyer.

Directors—O. H. Violet, C. P. Walker,

James Geary, W. A. Monroe, C. A. Galbraith, J. A. Blackburn, A. C. Scott, W. L. Couch, Victor Sherman, A. L. Woodford, W. H. Ebey, J. W. Beard, B. N. Woodson, C. W. Price, W. J. Pettee, A. B. Hammer, W. McGlinchey, J. L. Brown, W. L. Harvey, E. W. Sweeney, J. P. McKinnis.

Four months after the founding of the city, forty-five doctors, including two women, were located in Oklahoma City, and all of them ostensibly for the purpose of practicing their profession, though not a few were engaged in improving city lots and in the more material activities of the city. The active physicians saw fit to organize within two months after the opening, and a meeting on June 11, 1889, in Dr. Bradford's office, resulted in the organization of the Oklahoma Medical Society. The officers were: L. W. Benesse, president; DeLos Walker, vice president; W. M. Baird, secretary; H. C. Way, treasurer. "We, the physicians of Oklahoma City, South Oklahoma and vicinity, for the purpose of investigating, by discussions, lectures and essays, all that pertains to our profession, including our relations to our patients and to each other, do hereby organize ourselves into a medical society," is the preamble of the society.

The establishment of the Oklahoma City *Times* was an instance of advanced newspaper enterprise. Hamlin Whitmore Sawyer is one of the most interesting figures of Oklahoma journalism. His associate in this undertaking was B. R. Herrington, who, being thoroughly familiar with the Oklahoma country, became local editor. In this case the local editor was the sole representative of the paper in Oklahoma, and really deserved the name of foreign correspondent. The first number of the Oklahoma City *Times* was issued at Wichita, Kansas, December 29, 1888, Mr. Herrington's copy being set up and all the mechanical work being done in Wichita. It is said that the novelty of the enterprise and the eagerness of people from all parts of the country to hear the news about Oklahoma gave the *Times* a very large circulation, very little of which, curious to say, was in Oklahoma. On February 10, 1889, Lieut. Malcomb, with a company of United States troops, raided this section of Oklahoma and drove out all "sooners," including the *Times*, which was then being printed in this vicinity. The proprietors had to move their establishment to Purcell, and then back to Wichita, where the paper was issued as at first until the opening. On June 30, 1889, the first issue of the Oklahoma City *Daily Times* appeared.

Two features of Oklahoma City during the first months of its development are noted in a report sent by Captain Forbush to headquarters, on July 29:

"I desire to be informed as to whether the city of Oklahoma have the right to extend the jurisdiction of their police beyond the city limits proper for sanitary purposes only. There are quite a number of dead cattle lying in the vicinity of the city, having been afflicted with Texas fever, and it is purposed to have the decaying bodies disposed of by the city within the radius of five miles and require the owners of the cattle to dispose of the bodies themselves in case of future deaths." (The sanitary jurisdiction of the city was confirmed.)

"On the night of the 28th inst., a young Englishman arrived in Oklahoma who was to join a settlement of his people between Oklahoma and Fort Reno. He was introduced to a gambling den by 'bunco-steerers,' and fleeced of about $540. The prevailing opinion among the better people seemed to be that the young fellow had

been robbed, and they advised him to report the facts to the provost-marshal, Captain Stiles, Tenth Infantry, who at once informed me about it, and at the same time telling me that a man had been 'sandbagged' in the same place but a short time since, robbed, put on the train and sent to Texas.

"There is no local law to prevent gambling, and the city authorities, as well as the United States marshals, fail to take cognizance of these cases.

"In the interests of peace and good order, I directed Captain Stiles . . . to break this gambling den up and see to it personally that the occupant left the city. They have all departed." (This action was commended.)

The enterprising individual who took possession of the only pump in Oklahoma City at the opening and sold water at so much a drink until he was ousted from his profitable "graft" was the central figure of an incident that is related in a report of Captain Stiles to Inspector General Sanger:

"I have the honor to report that on April 23, 1889, the day following the opening of Oklahoma, a gambler from Chicago named G. W. Cole took possession of the only pump in town and sold water at five cents a drink. The man sat near the pump, and was armed with a revolver, which he kept in his lap part of the time. He collected the money himself, and had a man pump the water. There were over 12,000 people camped on the site of Oklahoma at the time, and besides this pump there were only two other places where water could be had —one a well with a bucket where there was but little water, and the other at the railroad tank, and here the supply was limited.

"The people were suffering for water and appealed to me to remove Cole, saying if I did not do so they would hang him. Upon inquiry I found that Cole had no right to the pump or water, and at once removed him and placed a guard over the pump with orders to allow each person to have one bucket of water. My action in this case was at once reported to the commanding officer, Col. J. F. Wade, Fifth Cavalry, and approved by him."

It is a matter of some surprise to people of the older states, who possess no discriminating knowledge of early Oklahomans, to learn that religious institutions were established almost as soon as home shelters were built. Along with the army of gamblers who entered Oklahoma City at the beginning, also went some Christian workers. On the second Sunday in May, 1889, a meeting was held in the postoffice building which resulted in the organization of a local Y. M. C. A. Through the winter of 1889-90, while men were bending their energies to building a new town, occasional lectures were being given by this association, and the proceeds from these were applied to the establishment of a library and reading room. Gen. F. L. Cramer was the first president, A. C. Scott, vice president, and Henry DeWolfe, general secretary. These officers were succeeded after the first month by: A. C. Scott, president; Robert Young, vice president; Charles Richardson, secretary; T. H. Weiss, treasurer, and John M. Martin, general secretary for this city.

The ringing of the first angelus from the tower of St. Joseph's church in Oklahoma City on the evening of August 2, 1889, was one of those impressive incidents of pioneer times that show how close to the beginning of organized society are the institutions of religion.

Rev. N. F. Scallan, who had been Cath-

olic missionary among the Indians of the territory, came to Oklahoma City, May 7, 1889, about two weeks after the founding of the town, and advertised a meeting of the Catholics for the next Sunday. A railroad accident delayed this first Catholic mass, and it was not performed until the Sunday of May 19, 1889. The old Indiana House, on Main street, between Robinson and Harvey, was the scene of this first Catholic service. A considerable number of first settlers were Catholic, as shown by the fact that fifty-five heads of families and forty-two young men enrolled as members to constitute the parish of St. Joseph's. The church was begun July 1, 1889, with Father Scallan as the architect.

The Masonic order became active in Oklahoma City within less than a month after the opening. On Friday night of May 10th, forty-one Masons held an informal meeting in an unfinished room adjoining the postoffice on Main street. A temporary floor had been laid in the room, and it was with difficulty and some risk that the members made their way about, while the gusts of wind several times extinguished the light. In spite of these inconveniences a chairman was chosen (S. Linn Biedler of Illinois) and a secretary (A. C. Scott, of Kansas), and a committee of five appointed to secure dispensation for Masonic work, namely: S. Linn Biedler, J. M. Steade, J. A. Keys, D. W. Gibbs and H. B. Calef. Dispensation was granted September 23, 1889, though weekly meetings nad been held in tne meantime, and at the meeting of the grand lodge at Purcell a charter was granted North Canadian Lodge No. 36, on November 6th. The charter members numbered twenty-three, and the first officers, chosen December 13th, were: C. M. Keller, W. M.; Dr. C. F. Waldron, S. W.; Maj. W. A. Monroe, J. W.; David W. Gibbs, Treas.; Maj. J. E. Bell, Secy.; W. P. Stork, S. D.; Taylor Logan, J. D.; L. H. Graham, T.

W. L. Couch.*

The 22d of April, 1890, the first anniversary of the opening of the Fair God land to civilization, was a day of mourning in Oklahoma City. One week before the brave and gallant Captain W. L. Couch had been cruelly shot down while defending his homestead. After lingering for a few days upon the borders of the great unknown, his heroic spirit burst the fetters that bound it and sailed away upon eternity's sea. He died on Monday, April 21, 1890, and was laid to rest the following day upon the beautiful homestead where he had hoped to pass his declining years, and for which he endured the hardships of pioneer life and braved the opposition of the United States government. An immense concourse of people attended the funeral of the dead hero. The Methodist church was filled to its utmost capacity with the grief-stricken friends and relatives. At the close of an impressive service the sorrowful audience repaired to the grounds adjacent to the church, where its numbers were augmented by fully five thousand people from both the city and adjoining country. Here the Hon. Sidney Clarke, an intimate friend and co-worker of the martyred Couch, paid the following eloquent and pathetic tribute to his memory:

"Death is an impenetrable mystery. Today we are in the bloom of health; tomorrow we step out into the great hereafter. Like the endless cycles of time, the generations of men march with measured tread from the cradle to the grave. But

*From the "Illustrated History of Oklahoma," by Marion Tuttle Rock, 1890.

a few days ago I clasped the warm hand of our dead friend in mine, and with mingled hopes and fears bade him good-bye. Yesterday I returned to find him in the embrace of death, and today I come to join with you in honoring his memory and watering with tears his new-made grave.

"But, oh, my friends, how feeble is human language to express the anguish of this hour! Remembering the heroic spirit of him whose mortal frame we this day bury beneath the soil he loved so well, gladly would I say something to cheer the hearts that are bruised and bleeding with unutterable sorrow. But well I know that none but Him who holds in His keeping the mysteries of the universe can assuage the grief caused by this sad calamity.

"Not only in the sacred circle of his family and friends—to us who knew him but to love him—but to millions throughout the country, the story of W. L. Couch—the story of the life now gone—will be a lesson, a poem, a tragedy. It speaks to us of bravery, of generosity, of charity, of integrity, of sincerity of purpose, of the royalty of truth, of the sanctity of friendship, of the nobility of manhood, of love and hope, of joy and sorrow, of triumph and of adversities. It tells us that a noble purpose in any life—unyielding for the right—will master the most difficult problems, and snatch the grandest victories for mankind from the jaws of defeat. It tells us of a man of undaunted courage, and who knew no fear, was generous to a fault, and that he gave up his own life rather than take in self-defense the life of another.

"No man knew better than Captain Couch the dangerous character of his assailant; no man knew better than he the sacred right of self-defense in all civilized society; no man was more capable of defending his life, and yet so great was his magnanimity that he carefully evaded any act which would put him in the position of the aggressor.

"I cannot now speak in detail of the life of Captain Couch. Born in the state of North Carolina in 1850, he moved to Johnson county, Kansas, in 1866, and four years later settled at Douglas in Butler county. In 1880 he became fully identified with Payne's Oklahoma colony, and after the death of Captain Payne in 1884, he was elected president. Through all the years that followed, up to the spring of 1889, you know with what pertinacity, with what unwearied diligence, he led the advance guard of civilization against the craft and barbarism which had closed Oklahoma to settlement. To the world at large he was deemed the leader of a forlorn hope, but to him and to his associates it was the path of duty and the way to victory. He believed then and to the day of his death, as I believe now, that Oklahoma has been in every proper sense a part of the public domain since the treaties of 1866. But mindful of the interpretation of the law by the executive department of the government, in December, 1885, he went to Washington and commenced the great work before Congress which bore its fruit one year ago today in the opening of Oklahoma to settlement. Alas, that on this anniversary of that notable event, and on the day when the American Congress, aroused to action by the movement of which he was the conspicuous and trusted leader, has crowned this beautiful territory with the majesty of civil government, he is not here to witness the great event!

"For more than five years I have been intimately associated with Captain Couch in the work he had in hand, and I know how great were his efforts and earnest his purpose to dedicate Oklahoma to free

homes and to a free people. I know there was no reserve in his friendship for me, and I know there was none in mine for him. If I ever looked into any man's heart; if I ever comprehended the value of courage, sincerity and integrity, in human character; if I ever correctly divined the motives and objects of a single human being, I did in the case of my dead friend. It is not too much to say that he was made of the material of which heroes are made. He looked into the future with the grasp of the most comprehensive statesman. He saw before other men saw the future state of Oklahoma, rich in all the attributes of wealth, civilization, and progress. He saw with prophetic eye the millions of happy homes that will dot this fair land in the years to come. He comprehended the transcendent results which, under the beneficent influence of our free institutions, will follow the founding here in the center of the continent of a new American state.

"Its vast possibilities were as plain to his vision as the rays of a beautiful morning sun. He appreciated the majestic forces of Christian civilization marching on and on to the subjugation of a continent. He exemplified the spirit of Whittier's poem:

> "'Each rude and jostling fragment
> Soon its fitting place shall find;
> The raw material of a state,
> Its muscle and its mind.
> And westward still, the star that leads
> The new world in its train
> Has tipped with fire the icy spurs
> Of many a mountain chain.'

"The name and fame of Capt. W. L. Couch will be indissolubly connected with the history of Oklahoma. Only those who did not know the man will ever question the purity of his motives or the grandeur of his character. If there be those who would have deprived him and his family a home on Oklahoma soil after his long and weary struggle for the right, after his sacrifices and sufferings in behalf of the people of Oklahoma of to-day and of to-morrow, after his battle to the death with monopoly and fraud, let them be left to the universal execration of that portion of mankind who despise ingratitude and cover with immortal honor the unselfish heroes of the human race. . . .

"In his last hours he had no word of reproach for the destroyer of his life. When the grim messenger of death held him in no uncertain grasp, he was as calm and fearless as when in the best of health. . . .

"Brave, generous, heroic friend! Noble in life, true to duty and to humanity, what a sublime lesson you have left to us, and to those who come after us, in the presence of death! We enroll your name with the heroes of this age and of all the ages who have dared to suffer and to die for principle, for friends, for country, for the good of their fellow men."

Kansas and the original Oklahoma Territory stood in somewhat similar relations to each other as the old state of Virginia was related to Kentucky and Tennessee. From the Old Dominion not only its native sons, but its institutions and civic and social ideals, were transplanted to the western slopes of the Alleghanies, and there lived and were reproduced in the changed environment and times that characterized the early history of that region. The ideals and actions that gave the particular stamp to the history of Kansas survived in the men who gave vitality to the movement for the opening of Oklahoma to settlement, and the influence of the free-state movement and the type of men who became conspicuous under the title of "Kansans" were the strongest factors in the occupation of

Oklahoma. Oklahoma as a state and during the latter part of its existence as a territory has outgrown the Kansas influence as a predominating factor, but during the boomer days and for some time after the original opening Kansas men, and Kansas law, and Kansas ideas were controlling powers in Oklahoma affairs.

This close association of Kansas and Oklahoma has nowhere a better illustration than in the life of the man whose career, more than that of any other individual, has been identified in a large political way with the affairs of both states throughout the greater period of their history. Sidney Clarke became a resident of the territory of Kansas in 1859. The climax of the free-state fight was over, but Kansas was still restless before the coming crisis of the Civil war. A young law student of twenty-four in the office of the free-state apostle, Jim Lane, could not fail to understand the principles and details of the political discussions of the time, and when, a little later, he became private secretary for Senator Lane, the first senator from the state of Kansas, he was at once thrown into immediate contact with the greatest personalities of the nation. In the first year of the war he was elected to the Kansas legislature, and the following year was made assistant adjutant general of volunteers, and assigned to duty at Leavenworth as provost marshal general for Kansas, Nebraska, Colorado and Dakota under what was known as the enrollment act. He superintended the volunteer recruiting service and was chief mustering and disbursing officer for his district.

In the fall of 1864 Mr. Clarke was elected to Congress—being the third man to receive that honor and at that time the only representative Kansas had in the lower house. By reëlection he served in Congress until March 4, 1871. As congressman-elect he was in Washington during the last months of the war, was on the scene a few minutes after the assassination of Lincoln, assisted in the hasty reorganization of government after that catastrophe, and as a member of the funeral party witnessed all the final scenes in the earthly career of the great war President. From the beginning of the war until the close of his term of service in Congress, the experiences of Mr. Clarke and his associations with noted men were of such an intimate character that his reminiscences become a vivid portrayal of that important period of the nation's history.

As one of the adopted sons whom Kansas chose to honor, he was thoroughly representative of the vital principles of politics and civics that Kansas had upheld during her formative period. Sidney Clarke was an expansionist in the sense that he believed in the unrestricted development of the national resources wherever they were found. Against the rights of the homesteader he recognized no sufficient adverse claims. Furthermore, he found in the changed conditions and exigencies of the time in which he lived a justification of any reversal and revision of the policies adopted in the past. Consequently, in the era of national development that followed immediately after the war, he gave his influence and active support to the extension of railroad lines into the undeveloped areas of the west. As a Kansan he was interested in the Indian land question, especially since immense tracts in Kansas still were vested in the control of the Indian department. During the last term he was in Congress he was chairman of the house committee on Indian affairs, and it may be said that in that capacity his influence was directed to the gradual reduction of the Indian domain,

but that all the lands thus acquired for the public domain should at once be opened for the benefit of the actual homesteaders, and not given in extravagant grants to corporations. His opposition to railroad control over Indian lands in Kansas is said to have cost him his reëlection in 1870 and his defeat for the United States senate in the legislature of 1871. His convictions as to the rights of homesteaders and his interpretation of treaty laws gave Mr. Clarke a prominent position in the settlement of these questions, and one of the natural results of this prominence was his connection with the lands in Indian Territory which had been ceded, for specified purposes, in the treaties of 1866. Thereafter for over a decade he led the fight in and before Congress for the opening to actual settlement of the western half of the Creek Nation, familiarly called "Oklahoma." His story of his associations with the opening of Oklahoma is given elsewhere.

For forty years Mr. Clarke lived in the midst of the changing economic and political conditions of the west. An active contender on one side or the other in all the political movements of that time, his contemporaries and associates comprise the men who made the history of the last half century. Now living in retirement in Oklahoma City, this veteran campaigner, who was one of Jim Lane's lieutenants in the free-state days of Kansas, whose name and activity in early Kansas politics are still remembered there, who from the beginning of the Oklahoma agitation until the achievement of statehood was "'boomer," congressional lobbyist, delegate and speaker and worker at all times for the advancement of the movement—reviews the events of the past with the kindliness and freedom from animosity that characterize a military leader who has won and lost many battles. Without doubt Sidney Clarke is one of the most interesting historical characters of Oklahoma, possessed of an unsurpassed fund of knowledge about the development of Oklahoma, a fund that has been liberally drawn upon by the writer in the preparation of this history. He lives quietly in the city which he helped found, and in a metropolis that has grown so fast in recent years, probably only a small proportion of the citizens recognize in him the man who more than any other individual was responsible for the course which Oklahoma history has taken during the last twenty years.

Mr. Clarke is of Scotch descent. His ancestors were among the early settlers of Massachusetts and were among the first to protest against the oppression of the British government. His grandfather was a soldier in the Revolutionary army and his father served in the War of 1812. His grandmother's brother, Daniel Clarke Sanders, was a distinguished Congregational clergyman, graduating at Harvard College soon after the Declaration of Independence, and for many years president of the State University at Burlington, Vermont. Mr. Clarke was married at Lawrence, Kansas, in 1860, to Miss Henrietta Ross, by whom he had four children, two sons and two daughters. Sidney Clarke, Jr., is a successful merchant at Shawnee, Oklahoma, and George Lincoln Clarke died in 1892. The daughters are both married—Mrs. Lulu Clarke Knowlton residing at Worcester, Massachusetts, and Mrs. Ella Clarke Goodwin at Weymouth, Nova Scotia. The mother died in 1873. In 1881 Mr. Clarke was married to Miss Dora Goulding, of Topeka, Kansas, by whom he has a son and a daughter. The son, Roscoe Conkling, is a student in the Oklahoma City high school, and the daughter,

Josephine, graduated at the State University at Norman in 1907, and is now at the head of the Latin department of the high school at Muskogee. Mrs. Clarke was prominent in the social and intellectual life of Oklahoma City from the first settlement, and her sudden death from pneumonia in 1904 was a sad blow to the family and friends.

CONSTITUTION OF THE STATE OF OKLAHOMA

PREAMBLE.

Invoking the guidance of Almighty God, in order to secure and perpetuate the blessing of liberty; to secure just and rightful government; to promote our mutual welfare and happiness, we, the people of the State of Oklahoma, do ordain and establish this Constitution.

ARTICLE I.

Federal Relations.

SECTION 1. The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

SEC. 2. Perfect toleration or religious sentiment shall be secured, and no inhabitant of the state shall ever be molested in person or property on account of his or her mode of religious worship; and no religious test shall be required for the exercise of civil or political rights. Polygamous or plural marriages are forever prohibited.

SEC. 3. The people inhabiting the state do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe or nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal and control of the United States. Land belonging to citizens of the United States residing without the limits of the state shall never be taxed at a higher rate than the lands belonging to residents thereof. No taxes shall be imposed by the state on lands or property belonging to or which may hereafter be purchased by the United States or reserved for its use.

SEC. 4. The debts and liabilities of the Territory of Oklahoma are hereby assumed, and shall be paid by the state.

SEC. 5. Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control; and said schools shall always be conducted in English; provided, that nothing herein shall preclude the teaching of other languages in said public schools; and provided further, that this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children.

SEC. 6. The state shall never enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude.

SEC. 7. The manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within those parts of the state heretofore known as Indian Territory and the Osage Indian reservation, and within any other parts of the state which existed as Indian reservations on the first day of January, nineteen hundred and six, is prohibited for a period of twenty-one years from the date of the admission of the state into the union, and thereafter until the people of the state shall otherwise provide by amendment to this constitution and proper state legislation. Any person, individual or corporate, who shall manufacture, sell, barter, give away or otherwise furnish any intoxicating liquor of any kind, including beer, ale or wine, contrary to the provisions of this section, or who shall, within the above described portion of the state advertise for sale or solicit the purchase of any such liquors, or who shall ship in any liquor from other parts of the state into the portions hereinbefore described, shall be punished, on conviction thereof, by fine not less than fifty dollars and by imprisonment not less than thirty days for each offense; provided, that the legislature may provide by law for one agency under the supervision of the state in each incorporated town of not less than two thousand population, in the portions of the state hereinbefore described; and if there be no incorporated town of two thousand population in any county in said portion of the state, such county shall be entitled to have one such agency, for the sale of such liquors for medicinal purposes and for sale, for industrial purposes, of alcohol, which shall have been denatured by some process approved by the United States Commissioner of Internal Revenue; and for the sale of alcohol for scientific purposes to such scientific institutions, universities, and colleges as are authorized to procure the same free of tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in the sum of not less than one thousand dollars, conditioned that none of such liquors shall be used or disposed of

for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States, and the payment of such special tax by any person within the parts of the state hereinabove defined shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is to be used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regularly practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered, and the register thereof, together with the affidavits and prescriptions pertaining thereto, shall be open to inspection by any officer or citizen of the state at all times during business hours. Any person who shall knowingly make a false affidavit for the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for treatment of disease which, after his own personal diagnosis, he shall deem to require such treatment, shall, upon conviction there of, be punished for each offense by fine of not less than two hundred dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency, who shall be convicted of making any sale or other disposition of liquor contrary to these provisions, shall be punished by imprisonment for not less than one year and one day. Upon the admission of the state into the union, these provisions shall be immediately enforcible in the courts of the state.

ARTICLE II.

Bill of Rights.

SECTION 1. All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare; and they have the right to alter or reform the same whenever the public good may require it; Provided, such change be not repugnant to the Constitution of the United States.

SEC. 2. All persons have the inherent right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry.

SEC. 3. The people have the right peaceably to assemble for their own good, and to apply to those invested with the powers of government for redress or grievances by petition, address, or remonstrance.

SEC. 4. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage by those entitled to such right.

SEC. 5. No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

SEC. 6. The courts of justice of the state shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice.

SEC. 7. No person shall be deprived of life, liberty, or property, without due process of law.

SEC. 8. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof of guilt is evident, or the presumption thereof is great.

SEC. 9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 10. The privilege of the writ of habeas corpus shall never be suspended by the authorities of the state.

SEC. 11. Every person elected or appointed to any office or employment of trust or profit under the laws of the state, or under any ordinance of any municipality thereof, shall give personal attention to the duties of the office to which he is elected or appointed.

SEC. 12. No member of congress from this state, or person holding any office of trust or profit under the laws of any other state, or of the United States, shall hold any office of trust or profit under the laws of this state.

SEC. 13. Imprisonment for debt is prohibited, except for the non-payment of fines and penalties imposed for the violation of law.

SEC. 14. The military shall be held in strict subordination to the civil authorities. No soldier shall be quartered in any house, in time of peace, without the consent of the owner, nor in time of war, except in a manner to be prescribed by law.

SEC. 15. No bill of attainer, ex post facto law, nor any law impairing the obligation of contracts, shall ever be passed. No conviction shall work a corruption of blood or forfeiture of estate: Provided, That this provision shall not prohibit the imposition of pecuniary penalties.

SEC. 16. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 17. No person shall be prosecuted criminally in courts of record for felony or misdemeanor otherwise than by presentment or indictment or by information. No person shall be prosecuted for a felony by information without having had a preliminary examination before an examining magistrate, or having waived such preliminary examination. Prosecutions may be instituted in courts not of record, upon a duly verified complaint.

SEC. 18. A grand jury shall be composed of twelve men, any nine of whom concurring may find an indictment or true bill. A grand jury shall be convened upon the order of a judge of a court having the power to try and determine felonies, upon his own motion; or such grand jury shall be ordered by such judge upon the filing of a petition therefor signed by one hundred resident taxpayers of the county; when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime, and such other powers as the legislature may prescribe: Provided, That the legislature may make the calling of a grand jury compulsory.

SEC. 19. The right of trial by jury shall be and remain inviolate, and a jury for the trial of civil and criminal cases in courts of record, other than county courts, shall consist of twelve men; but in county courts and courts not of record, a jury shall consist of six men. This section shall not be so construed as to prevent limitations being fixed by law upon the right of appeal from judgments of courts not of record in civil cases concerning causes of action involving less than twenty dollars. In civil cases, and in criminal cases less than felonies, three-fourths of the whole number of jurors concurring shall have power to render a verdict. In all other cases the entire number of jurors must concur to render a verdict. In case a verdict is rendered by less than the whole number of jurors, the verdict shall be in writing and signed by each juror concurring therein.

SEC. 20. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed: Provided, That the venue may be changed to some other county of the state, on the application of the accused, in such manner as may be prescribed by law. He shall be informed of the nature and cause of the accusation against him and have a copy thereof, and be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his behalf. He shall have the right to be heard by himself, and counsel; and in capital cases, at least two days before the case is called for trial, he shall be furnished with a list of the witnesses that will be called in chief, to prove the allegations of the indictment or information, together with their postoffice addresses.

SEC. 21. No person shall be compelled to give evidence which will tend to incriminate him, except as in this constitution specifically provided; nor shall any person, after having been once acquitted by a jury, be again put in jeopardy of life or liberty for that of which he has been acquitted. Nor shall any person be twice put in jeopardy of life or liberty for the same offense.

SEC. 22. Every person may freely speak, write, or publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libel, the truth of the matter alleged to be libelous may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous be true, and was written or published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 23. No private property shall be taken or damaged for private use, with or without compensation, unless by consent of the owner, except for private ways of necessity, or for drains and ditches across lands of others for agricultural, mining, or sanitary purposes, in such manner as may be prescribed by law.

SEC. 24. Private property shall not be taken or damaged for public use without just compensation. Such compensation, irrespective of any benefit from any improvements proposed, shall be ascertained by a board of commissioners of not less than three free-holders, in such manner as may be prescribed by law. The commissioners shall not be appointed by any judge or court without reasonable notice having been served upon all parties in interest. The commissioners shall be selected from the regular jury list of names prepared and made as the legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into the court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner only to the use for which it is taken. In all cases of condemnation of private property for public or private use, the determination of the character of the use shall be a judicial question.

SEC. 25. The legislature shall pass laws defining contempts and regulating the proceedings

and punishment in matters of contempt: Provided, that any person accused of violating or disobeying, when not in the presence or hearing of the court or judge sitting as such, any order of injunction, or restraint, made or entered by any court or judge of the state shall, before penalty or punishment is imposed, be entitled to a trial by jury as to the guilt or innocence of the accused. In no case shall a penalty or punishment be imposed for contempt, until an opportunity to be heard is given.

SEC. 26. The right of a citizen to keep and bear arms in defense of his home, person, or property, or in the aid of the civil power, when thereunto legally summoned, shall never be prohibited; but nothing herein contained shall prevent the legislature from regulating the carrying of weapons.

SEC. 27. Any person having knowledge or possession of facts that tend to establish the guilt of any other person or corporation charged with an offense against the laws of the state, shall not be excused from giving testimony or producing evidence, when legally called upon so to do on the ground that it may tend to incriminate him under the laws of the state; but no persons shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify or produce evidence.

SEC. 28. The records, books, and files of all corporations shall be, at all times, liable and subject to the full visitorial and inquisitorial powers of the state, notwithstanding the immunities and privileges in this Bill of Rights secured to any persons, inhabitants, and citizens thereof.

SEC. 29. No person shall be transported out of the state for any offense committed within the state, nor shall any person be transported out of the state for any purpose, without his consent, except by due process of law; but nothing in this provision shall prevent the operation of extradition laws, or the transporting of persons sentenced for crime, to other states for the purpose of incarceration.

SEC. 30. The right of people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, describing as particularly as may be the place to be searched and the person or thing to be seized.

SEC. 31. The right of the state to engage in any occupation or business for public purposes shall not be denied nor prohibited, except that the state shall not engage in agriculture for any other than educational and scientific purposes and for the support of its penal, charitable, and educational institutions.

SEC. 32. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailment, ever be in force in the State.

SEC. 33. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

ARTICLE III.

Suffrage.

SECTION 1. The qualified electors of the state shall be male citizens of the United States, male citizens of the state, and male persons of Indian descent native of the United States, who are over the age of twenty-one years, who have resided in the state one year, in the county six months, and in the election precinct thirty days, next preceding the election at which any such elector offers to vote: Provided, That no person adjudged guilty of the felony after the adoption of this constitution subject to such exceptions as the legislature may prescribe, unless his citizenship shall have been restored in the manner provided by law; nor any person, while kept in a poor-house or other asylum at the public expense, except Federal and Confederate ex-soldiers; nor any person in a public prison, nor any idiot or lunatic, shall be entitled to vote at any election under the laws of this state.

SEC. 2. For the purpose of voting, no member of the regular army or navy of the United States shall gain a residence in this state by reason of being stationed in this state, nor shall any such person lose a residence in the state while absent from the state in the military or naval service of the United States.

SEC. 3. Until otherwise provided by law, all female citizens of this state, possessing like qualifications of male electors, shall be qualified to vote at school district elections or meetings.

SEC. 4. The legislature shall enact laws creating an election board (not more than a majority of whose members shall be selected from the same political party), and shall provide the time and manner of holding and conducting all elections; and, at any time the Federal Constitution, may permit the election of United States Senators by direct vote of the people, the legislature shall provide for their election as for the election of Governor and other elective officers.

SEC. 5. The legislature shall enact laws providing for a mandatory primary system, which shall provide for the nomination of all candidates in all elections for State, District, County and municipal officers, for all political parties, including United States Senators: Provided, However, this provision shall not exclude the right of the

people to place on the ballot by petition any non-partisan candidate.

SEC. 6. In all elections by the people the vote shall be by ballot and the legislature shall provide the kind of ticket or ballot to be used and make such other regulations as may be necessary to detect and punish fraud, and preserve the purity of the ballot; and may, when necessary, provide a law for the registration of electors throughout the state or in any incorporated city or town thereof, and, when it is so provided, no person shall vote at an election unless he shall have registered according to law.

SEC. 7. The election shall be free and equal. No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage, and electors shall, in all cases, except for treason, felony, and breach of the peace, be privileged from arrest during their attendance on elections and while going to and from the same.

ARTICLE IV.

Distribution of Powers.

SECTION 1. The powers of the government of the State of Oklahoma shall be divided into three separate departments: the Legislative, Executive, and Judicial; and except as provided in this Constitution, the Legislative, Executive, and Judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others.

ARTICLE V.

Legislative Department.

SECTION 1. The legislative authority of the state shall be vested in a legislature, consisting of a senate and a house of representatives; but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option, to approve or reject at the polls any act of the legislature.

SEC. 2. The first power reserved by the people is the initiative, and eight per centum of the legal voters shall have the right to propose any legislative measure, and fifteen per centum of the legal voters shall have the right to propose amendments to the constitution by petition, and every such petition shall include the full text of the measure so proposed. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety), either by petition signed by five per centum of the legal voters or by the legislature as other bills are enacted. The ratio and per centum of legal voters hereinbefore stated shall be based upon the total number of votes cast at the last general election for the state office receiving the highest number of votes at such election.

SEC. 3. Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the legislature which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures voted on by the people. All elections on measures referred to the people of the State shall be had at the next election held throughout the state, except when the legislature or the Governor shall order a special election for the express purpose of making such reference. Any measure referred to the people by the initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast in such election. Any measure referred to the people by the referendum shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and not otherwise.

The style of all bills shall be: "Be it Enacted By the People of the State of Oklahoma."

Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of the State and addressed to the Governor of the state, who shall submit the same to the people. The legislature shall make suitable provisions for carrying into effect the provisions of this article.

SEC. 4. The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislature in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of such act from becoming operative.

SEC. 5. The powers of the initiative and referendum reserved to the people by this constitution for the state at large, are hereby further reserved to the legal voters of every county and district therein, as to all local legislation, or action, in the administration of county and district government in and for their respective counties and districts.

The manner of exercising said powers shall be prescribed by general laws, except that the Boards of County Commissioners may provide for the time of exercising the initiative and referendum powers as to local legislation in their respective counties and districts.

The requisite number of petitioners for the invocation of the initiative and referendum in counties and districts shall bear twice, or double, the ratio to the whole number of legal voters in such county or district, as herein provided therefor in the state at large.

SEC. 6. Any measure rejected by the people,

through the powers of the initiative and referendum, cannot be again proposed by the initiative within three years thereafter by less than twenty-five (25) per centum of the legal voters.

SEC. 7. The reservation of the powers of the initiative and referendum in this article shall not deprive the legislature of the right to repeal any law, propose or pass any measure, which may be consistent with the Constitution of the state and the Constitution of the United States.

SEC. 8. Laws shall be provided to prevent corruption in making, procuring, and submitting initiative and referendum petitions.

SEC. 9. The senate, except as hereinafter provided, shall consist of not more than forty-four members, whose term of office shall be four years: Provided, That one senator elected at the first election from each even numbered district shall hold office until the fifteenth day succeeding the regular state election in Nineteen Hundred and Eight, and one elected from each odd numbered district at said first election shall hold office until the fifteenth day succeeding the day of the regular state election in Nineteen Hundred and Ten: And, Provided Further, That in districts electing two senators, the two elected at the first election shall cast lots in such manner as the legislature may prescribe to determine which shall hold the long and which the short term.

SEC. 9. (a) At the time each senatorial apportionment is made after the year Nineteen Hundred and Ten the state shall be divided into forty-four districts, to be called senatorial districts, each of which shall elect one senator; and the Senate shall always be composed of forty-four senators, except that in event any county shall be entitled to three or more senators at the time of any apportionment such additional senator or senators shall be given such county in addition to the forty-four senators and the whole number to that extent. Said districts shall be numbered from One to Forty-four inclusive, and each of said districts shall contain as near as may be an equal number of inhabitants, such population to be ascertained by the next preceding Federal census, or in such manner as the legislature may direct, and shall be in as compact form as practicable and shall remain unaltered until the next decennial period, and shall at all times consist of contiguous territory.

SEC. 9. (b) No county shall ever be divided in the formation of a Senatorial District except to make two or more senatorial districts wholly in such county. No town, and no ward in a city, when constituting only one voting precinct, shall be divided in the formation of a senatorial district, nor shall any senatorial district contain a greater excess in population over an adjoining district in the same county than the population of a town, or ward in a city, constituting only one voting precinct therein, adjoining such district. Towns, and wards in cities, constituting only one voting precinct, which may, from their location, be included in either of two senatorial districts, shall be so placed as to make such districts most nearly equal in number of inhabitants.

SEC. 10. The house of representatives, until otherwise provided by law shall consist of not more than one hundred and nine members who shall hold office for two years: Provided, That the representatives elected at the first election shall hold office until the fifteenth day succeeding the day of the regular state election in Nineteen Hundred and Eight: And, Provided, That the day on which state elections shall be held shall be fixed by the legislature.

(a) The first legislature shall meet at the seat of government upon proclamation of the Governor on the day named in said proclamation, which shall not be more than thirty days nor less than fifteen days after the admission of the state into the union.

(b) The apportionment of this state for members of the legislature shall be made at the first session of the legislature after each decennial Federal census.

(c) The whole population of the state as ascertained by the Federal census, or in such manner as the legislature may direct, shall be divided by the number one hundred and the quotient shall be the ratio of representation in the House of Representatives for the next ten years succeeding such apportionment.

(d) Every county having a population equal to one-half of said ratio shall be entitled to one representative; every county containing said ratio and three-fourths over shall be entitled to two representatives, and so on, requiring after the first two an entire ratio for each additional representative: PROVIDED, That no county shall ever take part in the election of more than seven representatives.

(e) When any county shall have a fraction above the ratio so large that being multiplied by five the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratio among the several sessions of the decennial period. If there are two ratios, representatives shall be allotted to the fourth and third sessions, respectively; if three, the third, second and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

(f) Any county forming with another county or counties a representative district during one decennial period, if it has acquired sufficient population, at a fixed decennial period, shall be entitled to an additional representative, if there

shall be left in the district from which it shall have been separated a population sufficient for a representative. No such change shall be made except at the regular decennial period for the apportionment of representatives.

(g) If in fixing any decennial ratio, a county previously a separate representative district shall have less than the number required by the ratio for a representative, such county shall be attached to a county adjoining it and become a part of such representative district.

(h) No county shall ever be divided in the formation of representative districts except to make two or more representative districts in such county. No town, or ward in a city, where it constitutes only one voting precinct, shall be divided in the formation of representative districts, nor shall any representative district contain a greater excess in population over an adjoining district in the same county than the population of a town or ward in a city, constituting only one voting precinct adjoining such district. Counties, town or wards in cities, constituting only one voting precinct, which, from location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants.

(i) Ascertaining the ratio of representation according to the Federal census, or such other enumeration as the legislature may provide, and attaching any county, previously having a separate representative but found to have less than the number required by the ratio, to an adjoining county; and determining the number of representatives each county or district shall be entitled to, and for what sessions of the legislature within the next decennial period; and apportioning the senators, shall be done by the legislature and be presented to the Governor for his approval in the same manner as other bills which may be passed by the legislature.

(j) An apportionment by the legislature shall be subject to review by the Supreme Court at the suit of any citizen, under such rules and regulations as the legislature may prescribe. And such court shall give all cases involving apportionment precedence over all other cases and proceedings; and if said court be not in session, it shall convene promptly for the disposal of the same.

SEC. 11. Until the apportionment is made by the legislature after the next federal decennial census, the state, except as otherwise provided, shall be divided into thirty-three senatorial districts, each of which shall be composed of the counties as named, shall be numbered and elect senators as follows, namely:

First, Beaver, Cimarron, Harper, and Texas, one senator; Second, Beckham, Dewey, Ellis, and Roger Mills, two senators; Third, Woods and Woodward, one senator; Fourth, Greer, one senator; Fifth, Jackson and Tillman, one senator; Sixth, Custer, Kiowa, and Washita, two senators; Seventh, Alfalfa and Major, one senator; Eighth, Garfield, one senator; Ninth, Osage, Grant, and Kay, two senators; Tenth, Noble and Pawnee, one senator; Eleventh, Creek and Payne, one senator; Twelfth, Logan, one senator; Thirteenth, Lincoln and Pottawatomie, two senators; Fourteenth, Canadian and Oklahoma, two senators; Fifteenth, Caddo and Grady, two senators; Sixteenth, Blaine and Kingfisher, one senator; Seventeenth, Comanche, Jefferson, and Stephens, two senators; Eighteenth, Carter, Love, and Murray, two senators; Nineteenth, Cleveland, Garvin, and McClain, two senators; Twentieth, Atoka, Bryan, and Coal, two senators; Twenty-first, Latimer and Le Flore, one senator; Twenty-second, Hughes and Okfuskee, one senator; Twenty-third, Pontotoc and Seminole, one senator; Twenty-fourth, Choctaw, McCurtain, and Pushmataha, one senator; Twenty-fifth, Pittsburg, one senator; Twenty-sixth, Marshall and Johnston, one senator; Twenty-seventh, Haskell, McIntosh, and Muskogee, two senators; Twenty-eighth, Adair and Sequoyah, one senator; Twenty-ninth, Mayes and Craig, one senator; Thirtieth, Ottawa, Delaware, and Cherokee, one senator; Thirty-first, Tulsa and Washington, one senator; Thirty-second, Okmulgee and Wagoner, one senator; Thirty-third, Nowata and Rogers, one senator.

SEC. 12. The following counties shall each elect one member to the House of Representatives: Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Canadian, Cherokee, Choctaw, Cimarron, Cleveland, Coal, Comanche, Craig, Creek, Custer, Delaware, Dewey, Ellis, Grant, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kingfisher, Latimer, Le Flore, Love, Major, Marshall, Mayes, Murray, McClain, McCurtain, McIntosh, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pontotoc, Pushmataha, Rogers, Roger Mills, Seminole, Sequoyah, Stephens, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward.

SEC. 13. The following counties shall elect two members of the house of representatives: Bryan, Caddo, Carter, Garvin, Grady, Kay, Kiowa, Muskogee, and Pittsburg.

(a) Garfield, one to be elected from each of the following districts: District One, the city of Enid, Enid Township, and the townships of North Enid, Banner, and Garland. District Two, all that part of Garfield county not contained in District One.

(b) Greer, one to be elected from each of the following districts: District One, all that part of Greer county lying east of the line between ranges

twenty-three and twenty-four. District Two, all that part of Greer county not contained in District One.

(c.) Lincoln, one to be elected from each of the following districts: District One, the townships of Pawnee, Ponca, North Fox, South Fox, North Keokuk, South Keokuk, North Creek, South Creek, North Seminole, South Seminole, North Choctaw, and South Choctaw, with all towns and cities contained therein. District Two, all that part of Lincoln county not contained in District One.

SEC. 14. The following counties shall elect three members each: Pottawatomie and Logan.

Pottawatomie shall elect three members at large. Logan, with three members pro rated as follows: District One shall be composed of the townships of Marshall, Bismark, Orlando, Oak View, Rose Hill, Mulhall, Crescent, Woodland, Lowrie, Cedar, Iron Mound, Spring Creek, Antelope, and North Cimarron, and all towns and villages therein. District Two shall consist of all that part of the city of Guthrie described as follows: That part of the first ward lying north of Harrison Avenue, the second ward, the third ward, the fourth ward, and all of the fifth ward except that part lying south of Cleveland Avenue and east of Fourteenth street. District Three shall consist of all that part of Logan county not included in Districts One and Two.

SEC. 15. Oklahoma County shall have representatives to be elected as follows: to-wit: One from the county at large. The other three to be pro rated as follows: District One, Oklahoma City, and the townships of Oklahoma and Greely, with all towns and cities contained therein, two members. District Two, all that part of Oklahoma County not contained in District One, one member.

SEC. 16. (a.) The following pairs of counties shall compose additional legislative districts and each district shall elect one member to the House of Representatives: Johnston and Coal; Bryan and Atoka; Pontotoc and Seminole; Muskogee and Haskell; Pittsburg and Hughes; Comanche and Stephens; Washita and Custer; Pottawatomie and Lincoln; Sequoyah and Le Flore; Alfalfa and Grant; Craig and Rogers; Garfield and Kingfisher; Payne and Pawnee; Creek and Tulsa.

(b.) The following trio of counties shall constitute one Legislative District with one member: Caddo, Canadian, and Cleveland.

SEC. 17. Members of the Senate shall be at least twenty-five years of age, and members of the House of Representatives twenty-one years of age at the time of their election. They shall be qualified electors in their respective counties or districts and shall reside in their respective counties or districts during their term of office.

SEC. 18. No person shall serve as a member of the Legislature who is, at the time of such service, an officer of the United States for State Government, or is receiving compensation as such; nor shall any person be eligible to election to the Legislature, who has been adjudged guilty of a felony.

SEC. 19. A member of the Legislature expelled for corruption shall not thereafter be eligible to membership in either House. Punishment for contempt or disorderly conduct, or for any other cause, shall not bar an indictment for the same offense.

SEC. 20. The Governor shall issue writs of election to fill such vacancies as may occur in the Legislature.

SEC. 21. Members of the Legislature shall receive six dollars per diem for their services during the session of the Legislature, and ten cents per mile for every mile of necessary travel in going to and returning from the place of meeting of the Legislature, on the most usual route, and shall receive no other compensation: Provided, That members of the Legislature, except during the first session thereof held under this Constitution, shall receive only two dollars per diem for their services after sixty days of such session have elapsed.

SEC. 22. Senators and Representatives shall, except for treason, felony, or breach of the peace, be privileged from arrest during the session of the Legislature, and in going to and returning from the same, and, for any speech or debate in either House shall not be questioned in any other place.

SEC. 23. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any office or commission in the State, which shall have been created, or the emoluments of which shall have been increased, during his term of office, nor shall any member receive any appointment from the Governor, the Governor and Senate, or from the Legislature, during the term for which he shall have been elected, nor shall any member, during the term for which he shall have been elected, or within two years thereafter, be interested, directly or indirectly, in any contract with the State, or any county or other subdivision thereof, authorized by law passed during the term for which he shall have been elected.

SEC. 24. A member of the Legislature, who has a personal or private interest in any measure or bill, proposed or pending before the Legislature, shall disclose the fact to the House of which he is a member, and shall not vote thereon.

SEC. 25. The first session of the Legislature, held by virtue of this Constitution, shall not exceed one hundred and sixty days.

SEC. 26. The members of the Legislature shall meet at the seat of government on the first Tuesday after the first Monday in January at twelve o'clock, noon, in the year next succeeding their election, or upon such other day as may be provided by law.

SEC. 27. The Legislature shall hold regular biennial sessions as herein provided, but this shall not prevent the calling of a special session of the Legislature by the Governor.

SEC. 28. The Senate shall, at the beginning of each regular session and at such other times as may be necessary, elect one of its members President pro tempore, who shall preside over its deliberations in the absence or place of the Lieutenant Governor; and the senate shall provide for all its standing committees and, by a majority vote, elect the members thereof.

SEC. 29. The House of Representatives, shall at the beginning of each regular session, and at such other times as may be necessary, elect one of its members Speaker.

SEC. 30. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalty as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same. The yeas and nays of the members of either House on any question at the desire of one-fifteenth of those present shall be entered upon its journal.

Neither House, during the session of the Legislature, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 31. In all elections made by the Legislature, except for officers and employees thereof, the members thereof shall vote yea or nay, and each vote shall be entered upon the journal.

SEC. 32. No special or local law shall be considered by the Legislature until notice of the intended introduction of such bill or bills shall first have been published for four consecutive weeks in some weekly newspaper published or of general circulation in the city or county affected by such law, stating in substance the contents thereof, and verified proof of such publication filed with the Secretary of State.

SEC. 33. All bills for raising revenue shall originate in the House of Representatives. The Senate may propose amendments to revenue bills. No revenue bill shall be passed during the last five days of the session.

SEC. 34. Every bill shall be read on three different days in each House, and no bill shall become a law unless, on its final passage, it be read at length, and no law shall be passed unless upon a vote of a majority of all the members elected to each House in favor of such law; and the question, upon final passage, shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

SEC. 35. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, immediately after the same shall have been publicly read at length, and the fact of reading and signing shall be entered upon the journal, but the reading at length may be dispensed with by a two-thirds vote of a quorum present, which vote, by yeas and nays, shall also be entered upon the journal.

SEC. 36. The authority of the Legislature shall extend to all rightful subjects of legislation, and any specific grant of authority in this Constitution, upon any subject whatsoever, shall not work a restriction, limitation, or exclusion of such authority upon the same or any other subject or subjects whatsoever.

SEC. 37. The Legislature shall have the power to establish a state printing plant, and to provide for the election or appointment of a State Printer.

SEC. 38. The Legislature shall provide for the establishment of a State Geological and Economic survey.

SEC. 39. The Legislature shall create a Board of Health, Board of Dentistry, Board of Pharmacy, and Pure Food Commission, and prescribe the duties of each. All physicians, dentists, and pharmacists now legally registered and practicing in Oklahoma and Indian Territory shall be eligible to registration in the State of Oklahoma without examination or cost.

SEC. 40. The Legislature shall provide for organizing, disciplining, arming, maintaining, and equipping the Militia of the State.

SEC. 41. The Legislature may enact laws authorizing cities to pension meritorious and disabled firemen.

SEC. 42. In any legislative investigation, either House of the Legislature or any committee thereof, duly authorized by the House creating the same, shall have power to punish as for contempt, disobedience of process, or contumacious or disorderly conduct, and this provision shall also apply to joint sessions of the Legislature, and also to joint committees thereof, when authorized by joint resolution of both Houses.

SEC. 43. The Legislature shall, in the year nineteen hundred and nine and each ten years thereafter, make provision by law for revising, digesting, and promulgating the statutes of the State.

SEC. 44. The Legislature shall define what is an unlawful combination, monopoly, trust, act, or agreement, in restraint of trade, and enact laws to punish persons engaged in any "unlawful combination, monopoly, trust, act, or agreement, in restraint of trade," or composing any such monopoly, trust, or combination.

SEC. 45. The Legislature shall pass such laws as are necessary for carrying into effect the provisions of this Constitution.

SEC. 46. The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special laws authorizing:

The creation, extension, or impairing of liens;

Regulating the affairs of counties, cities, towns, wards, or school districts;

Changing the names of persons or places;

Authorizing the laying out, opening, altering, or maintaining of roads, highways, streets, or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other state;

Vacating roads, town plants, streets, or alleys;

Relating to cemeteries, graveyards, or public grounds not owned by the State;

Authorizing the adoption or legitimation of children;

Locating or changing county seats;

Incorporating cities, towns, villages, or changing their charter;

For the opening and conducting of election, or fixing or changing the places of voting;

Granting divorces;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of, or changing the rules of evidence in judicial proceedings or inquiry before the courts, justices of the peace, sheriffs, commissions, arbitrators or other tribunals, or providing or changing the methods for the collection of debts, or the enforcement of judgments, or prescribing the effects of judicial sales of real estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, or constables;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estate of minors, or persons under disability;

Remitting fines, penalties and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or impaneling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements;

Providing for changes of venue in civil and criminal cases.

SEC. 47. The Legislature shall not retire any officer on pay or part pay, or make any grant to such retiring officer.

SEC. 48. The Legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a Bureau of Immigration in this State.

SEC. 49. The Legislature shall not increase the number or emolument of its employees, or the employees of either House, except by general law, which shall not take effect during the term at which such increase was made.

SEC. 50. The Legislature shall pass no laws exempting any property within this State from taxation, except as otherwise provided in this Constitution.

SEC. 51. The Legislature shall pass no law granting to any association, corporation, or individual any exclusive rights, privileges, or immunities within this State.

SEC. 52. The Legislature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this State. After suit has been commenced on any cause of action, the Legislature shall have no power to take away such cause of action, or destroy any existing defense to such suit.

SEC. 53. The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liabilities, or obligations of any corporation, or individual, to this state, or any county or other municipal corporation thereof.

SEC. 54. The repeal of a statute shall not revive a statute previously repealed by such statute, nor shall such repeal affect any accrued right, or penalty incurred, nor proceedings begun by virtue of such repealed statute.

SEC. 55. No money shall ever be paid out of

the Treasury of this State, nor any of its funds, nor any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payments be made within two and one-half years after the passage of such appropriation act, and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated and the object to which it is to be applied, and it shall not be sufficient for such law to refer to any other law to fix such sum.

SEC. 56. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative, and judicial departments of the State, and for interest on the public debt. The salary of no officer or employee of the State, or any subdivision thereof, shall be increased in such bill, nor shall any appropriation be made therein for any such officer or employee, unless his employment and the amount of his salary, shall have been already provided for by law. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 57. Every act of the Legislature shall embrace but one subject, which shall be clearly expressed in its title, except general appropriation bills, general revenue bills, and bills adopting a code, digest, or revision of statutes; and no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only; but so much thereof as is revived, amended, extended, or conferred shall be reenacted and published at length: Provided, That if any subject be embraced in any act contrary to the provisions of this section, such act shall be void only as to so much of the law as may not be expressed in the title thereof.

SEC. 58. No act shall take effect until ninety days after the adjournment of the session at which it was passed, except enactments for carrying into effect provisions relating to the initiative and referendum, or a general appropriation bill, unless, in case of emergency, to be expressed in the act, the legislature, by a vote of two-thirds of all members elected to each House, so directs. An emergency measure shall include only such measures as are immediately necessary for the preservation of the public peace, health, or safety, and shall not include the granting of franchises or license to a corporation or individual, to extend longer than one year, nor provision for the purchase or sale of real estate, nor the renting or encumbrance of real property for a longer term than one year. Emergency measures may be vetoed by the Governor, but such measures so vetoed may be passed by a three-fourths vote of each House, to be duly entered on the journal.

SEC. 59. Laws of a general nature shall have a uniform operation throughout the State, and where a general law can be made applicable, no special law shall be enacted.

SEC. 60. The Legislature shall provide by law for the establishment and maintenance of an efficient system of checks and balances between the officers of the Executive Department, and all commissioners and superintendents, and boards of control of State institutions, and all other officers entrusted with the collection, receipt, custody, or disbursement of the revenue or moneys of the State whatsoever.

ARTICLE VI.

Executive Department.

SECTION 1. The executive authority of the state shall be vested in a Governor, Lieutenant Governor, Secretary of State, State Auditor, Attorney General, State Treasurer, Superintendent of Public Instruction, State Examiner and Inspector, Chief Mine Inspector, Labor Commissioner, Commissioner of Charities and Corrections, Commissioner of Insurance, and other officers provided by law and this constitution, each of whom shall keep his office and public records, books, and papers at the seat of government, and shall perform such duties as may be designated in this constitution or prescribed by law.

SEC. 2. The Supreme Executive power shall be vested in a Chief Magistrate, who shall be styled "The Governor of the State of Oklahoma."

SEC. 3. No person shall be eligible to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, Attorney General, State Treasurer, Superintendent of Public Instruction, or State Examiner and Inspector, except a male citizen of the United States, of the age of not less than thirty years, and who shall have been three years next preceding his election, a qualified elector of this state. Provided, That residence in this state shall include the territory now embraced in this state.

SEC. 4. The term of office of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Attorney General, State Treasurer, State Examiner and Inspector and Superintendent of Public Instruction, shall be for four years from the second Monday of January next after their election. The governor, secretary of state, state auditor and state treasurer shall not be eligible immediately to succeed themselves. The term of the State officers chosen at the first election under this constitution shall begin on the day on which the state is admitted into the union, and expire on the second Monday of January, in the year Nineteen Hundred Eleven.

SEC. 5. The returns of every election for all elective state officers shall be sealed up and trans-

mitted by the returning officers to the Secretary of State, directed to the Speaker of the House of Representatives, who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each branch of the legislature, who shall for that purpose assemble in the hall of the House of Representatives. The persons respectively having the highest number of votes for either of the said offices shall be declared duly elected; but in case two or more shall have an equal and the highest number of votes for either of said offices, the legislature shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for said office.

SEC. 6. The Governor shall be Commander-in-chief of the militia of the state, except when in service of the United States, and may call out the same to execute the laws, protect the public health, suppress insurrection and repel invasion.

SEC. 7. The Governor shall have power to convoke the legislature or the senate only on extraordinary occasions. At extraordinary sessions, no subject shall be acted upon, except such as the governor may recommend for consideration.

SEC. 8. The Governor shall cause the laws of the state to be faithfully executed, and shall conduct in person or in such manner as may be prescribed by law, all intercourse and business of the state with other states and with the United States, and he shall be a conservator of the peace throughout the state.

SEC. 9. At every session of the legislature, and immediately upon its organization, the Governor shall communicate by message, delivered to a joint session of the two houses, upon the condition of the state; and shall recommend such matters to the legislature as he shall judge expedient. He shall also transmit a copy, to each house, of the full report of each state officer and state commission. He shall communicate, from time to time, such matters as he may elect or the legislature may require.

SEC. 10. The Governor shall have power to grant, after conviction, reprieves, commutations, paroles and pardons for all offenses, except cases of impeachment, upon such conditions and with such restrictions and limitations as he may deem proper, subject to such regulations as may be prescribed by law. He shall communicate to the Legislature at each regular session each case of reprieve, commutation, parole, or pardon granted, stating the name of the convict, the crime for which he was convicted, the date and place of conviction and the date of commutation, pardon, parole, or reprieve.

SEC. 11. Every bill which shall have passed the Senate and House of Representatives, and every resolution requiring the assent of both branches of the legislature, shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large in the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill or joint resolution, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objection of the Governor. In all such cases, the vote in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the Journal of each house respectively. If any bill or resolution shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the Governor within fifteen days after such adjournment.

SEC. 12. Every bill passed by the legislature, making appropriations of money embracing distinct items, shall, before it becomes a law, be presented to the Governor; if he disapprove the bill, or any item, or appropriation therein contained, he shall communicate such disapproval, with his reasons therefor, to the house in which the bill shall have originated, but all items not disapproved shall have the force and effect of law according to the original provisions of the bill. Any item or items so disapproved shall be void, unless repassed by a two-thirds vote, according to the rules and limitations prescribed in the preceding section in reference to other bills; Provided, That this section shall not relieve emergency bills of the requirement of the three-fourths vote.

SEC. 13. The Governor shall commission all officers not otherwise commissioned by law. All commissions shall run in the name and by the authority of the "State of Oklahoma," be signed by the governor, sealed with the Great Seal of the State of Oklahoma, and attested by the Secretary of State. When any office shall become vacant, he shall, unless otherwise provided by law, appoint a person to fill such vacancy, who shall continue in office until a successor shall have been duly elected or appointed, and qualified according to law.

SEC. 14. In case of a disagreement between the two houses of the Legislature, at a regular or special session, with respect to the time of adjournment, the Governor may, if the facts be certified to him, by the presiding officer of the house first moving the adjournment, adjourn them to such time as he shall deem proper, not beyond the day of the next stated meetings of the Legislature. He may convoke the Legislature at or adjourn it to another place, when, in his opinion, the public safety or welfare or the safety or health of the members require it: Provided, however, That such change or adjournment shall be concurred in by a two-thirds vote of all members elected to each branch of the legislature.

SEC. 15. The Lieutenant Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein, and also in joint vote of both houses. If, during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die or be absent from the state or become incapable of performing the duties of the office, the president, pro tempore, of the senate, shall act as Governor until the vacancy be filled or the disability shall cease; and if the president pro tempore of the senate, for any of the above enumerated causes, shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the House of Representatives shall act as Governor until the vacancy be filled or the disability shall cease. Further provisions for succession to the office of governor shall be prescribed by law.

SEC. 16. In case of impeachment of the Governor, or of his death, failure to qualify, resignation, removal from the state, or inability to discharge the powers or duties of the office, the said office, with its compensation, shall devolve upon the Lieutenant Governor for the residue of the term or until the disability shall be removed.

SEC. 17. The Secretary of State shall keep a register of the official acts of the Governor, and when necessary, shall attest them, and shall lay copies of the same, together with copies of all papers relative thereto, before either house of the legislature, when required to do so. He shall also perform such other duties as shall be prescribed by law.

SEC. 18. The Secretary of State shall be the custodian of the Seal of the State, and authenticate therewith all official acts of the Governor, except his approval of laws. The said seal shall be called "The Great Seal of the State of Oklahoma."

SEC. 19. The State Examiner and Inspector must have had at least three years' experience as an expert accountant; his duties shall be, without notice to such treasurer, to examine the state and all county treasurers' books, accounts, and cash on hand or in bank at least twice each year, and publish in his report as to every such treasurer once each year. For the purpose of such examination he shall take complete possession of such treasurer's office. He shall also prescribe a uniform system of bookkeeping for the use of all treasurers. Other duties and powers may be added by law.

SEC. 20. A Department of Labor is hereby created to be under the control of a Commissioner of Labor who shall be elected by the people, whose term of office shall be four years, and whose duties shall be prescribed by law.

SEC. 21. The Legislature shall create a Board of Arbitration and Conciliation in the Labor Department, and the Commissioner of Labor shall be ex-officio chairman.

SEC. 22. There is hereby established an Insurance Department, which shall be charged with the execution of all laws now in force, or which shall hereafter be passed, in relation to insurance and insurance companies doing business in the State.

SEC. 23. There shall be elected by the qualified electors of the State, at the first general election, a chief officer of said department, who shall be styled "The Insurance Commissioner," whose term of office shall be four years: Provided, That the first term of the Insurance Commissioner so elected, shall expire at the time of the expiration of the term of office of the first Governor elected. Said Insurance Commissioner shall be at least twenty-five years of age and well versed in insurance matters.

SEC. 24. The Insurance Commissioner shall give bond, perform such duties, and possess such further qualifications as may be prescribed by law.

SEC. 25. The office of chief inspector of mines, oil, and gas, is hereby created, and the incumbent of said office shall be known as the chief mine inspector. The term of said office shall be four years, and no person shall be elected to said office unless he shall have had eight years' actual experience as a practical miner, and such other qualifications as may be prescribed by the legislature. The Chief Mine Inspector shall perform the duties, take the oath, and execute the bond prescribed by the legislature.

SEC. 26. The legislature shall create mining districts and provide for the appointment or election of assistant inspectors therein, who shall be under the general control of the chief mine inspector, and the legislature shall define their qualifications and duties and fix their compensation.

SEC. 27. A Commissioner of Charities and Corrections shall be elected in the same manner, at the same time, and for the same term as shall

the Governor. Said officer may be of either sex, and shall be twenty-five years of age or over, in all other respects said officer shall have the qualifications which shall be required of the Governor.

SEC. 28. The Commissioner of Charities and Corrections shall have the power, and it is hereby made his or her duty, to investigate the entire system of public charities and corrections, to examine into the conditions and management of all prisons, jails, alms-houses, reformatories, reform and industrial schools, hospitals, infirmaries, dispensaries, orphanages, and all public and private retreats and asylums, which derive their support wholly or in part from the State, or from any county or municipality within the State; and the officers of the various institutions named herein shall promptly upon demand furnish the said Commissioner with such information, relating to their respective institutions, as shall be demanded by said Commissioner, in writing. The said Commissioner shall have the power to summon any person to appear and produce such books and papers as shall be designated in the summons, and to give testimony under oath concerning the matter and institution under investigation. The said Commissioner shall have the power to administer oaths to such persons as may be summoned, and to enforce all such powers as are given to notaries public when they are taking depositions. A full report of said investigation, including the testimony shall be promptly made to the Governor, and shall be transmitted by him to the next Legislature with any suggestions which he may desire to make.

SEC. 29. On the first day of October of each year, and at any time on request of the Governor, the said Commissioner shall make a full and complete report of the operations and administrations of said office, with such suggestions as said Commissioner may deem suitable and pertinent.

SEC. 30. The Legislature shall have power to alter, amend, or add to the duties of, or grant additional authority, to such Commissioner.

SEC. 31. A Board of Agriculture is hereby created, to be composed of eleven members, all of whom shall be farmers, and shall be selected in the manner prescribed by law.

Said board shall be maintained as a part of the state government and shall have jurisdiction over all matters affecting animal industry and animal quarantine regulations, and shall be the board of regents of all state agricultural and mechanical colleges, and shall discharge such other duties and receive such compensation as may be provided by law.

SEC. 32. The Governor, Secretary of State, State Auditor, Superintendent of Public Instruction, and the President of the Board of Agriculture, shall constitute the Commissioners of the Land Office, who shall have charge of the sale, rental, disposal, and managing of the school lands, and other public lands of the State, and of the funds and proceeds derived therefrom, under rules and regulations prescribed by the Legislature.

SEC. 33. An account shall be kept by the officers and commissioners of the State of all moneys and choses in action disbursed or otherwise disposed of severally by them, from all sources, and for every service performed: and a report thereof shall be made semi-annually and as often as may be required by law, to the Governor under oath. The Governor may, at any time, require information in writing, under oath, from all officers and commissioners of the State, and all officers of State institutions, penal, eleemosynary, educational, and industrial, on any subject relating to their respective offices and institutions; which information, when so required, shall be furnished by such officers and managers; and any officer or manager who, at any time, shall make a false report, shall be punished as by law provided.

SEC. 34. Each of the officers in this article named shall, at stated times, during his continuance in office, receive for his services a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use, any fees, costs, or perquisites of office or other compensation.

SEC. 35. In the center shall be a five pointed star, with one ray directed upward. The center of the star shall contain the central device of the seal of the Territory of Oklahoma, including the words, "Labor Omnia Vincit." The upper left hand ray shall contain the symbol of the ancient seal of the Cherokee Nation, namely: A seven pointed star partially surrounded by a wreath of oak leaves. The ray directed upward shall contain the symbol of the ancient seal of the Chickasaw Nation, namely: An Indian warrior standing upright with bow and shield. The lower left hand ray shall contain the symbol of the ancient seal of the Creek Nation, namely: A sheaf of wheat and a plow. The upper right hand ray shall contain the symbol of the ancient seal of the Choctaw Nation, namely: A tomahawk, bow, and three crossed arrows. The lower right hand ray shall contain the symbol of the ancient seal of the Seminole Nation, namely: A village with houses and a factory beside a lake upon which an Indian is paddling a canoe. Surrounding the central star and grouped between its rays shall be forty-five small stars, divided into five clusters of nine stars each, representing the forty-five states of the Union, to which the forty-sixth is now added. In a circular band surrounding the

whole device shall be inscribed, GREAT SEAL OF THE STATE OF OKLAHOMA 1907.

ARTICLE VII.

Judicial Department.

SECTION 1. The judicial power of this state shall be vested in the senate, sitting as a court of impeachment, a supreme court, district courts, county courts, courts of justices of the peace, municipal courts, and such other courts, commissions or boards, inferior to the supreme court, as may be established by law.

SEC. 2. The appellate jurisdiction of the supreme court shall be co-extensive with the state, and shall extend to all civil cases at law and in equity, and to all criminal cases until a criminal court of appeals with exclusive appellate jurisdiction in criminal cases shall be established by law. The original jurisdiction of the supreme court shall extend to a general superintending control over all inferior courts and all commissions and boards created by law. The supreme court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, and such other remedial writs as may be provided by law, and to hear and determine the same; and the supreme court may exercise such other and further jurisdiction as may be conferred upon it by law. Each of the justices shall have power to issue writs of habeas corpus to any part of the state upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or before the supreme court, or before any district court, or judge thereof, in the state.

SEC. 3. The supreme court shall consist of five justices until the number shall be changed by law. The state shall be divided into five supreme court judicial districts until the legislature shall change the number of members of the court, at which time the legislature shall redistrict the state to conform to the number of justices of the supreme court. From each of said districts candidates for justices of the supreme court shall be nominated by political parties, or by petitioners of the respective district, in the manner provided by law, and such candidates shall be voted for by the qualified voters of the state at large, and no elector at such election shall vote for more than one candidate from each district. The candidate from each district receiving the highest number of votes cast in the state at said election shall be declared the justice elect in said district. A majority of the members of the supreme court shall constitute a quorum, and the concurrence of the majority of said court shall be necessary to decide any question. No person shall be eligible to the office of justice of the supreme court unless he shall be at the time of his election a citizen of the United States and shall have been a resident of the territory embraced within the state for a period of two years, and of the territory comprising the district from which he is elected for a period of one year; and unless he shall have attained the age of thirty years and shall have been a lawyer licensed by some court of record, or shall have been a judge of some court of record, or such judge or lawyer together at least five years.

The terms of office of the Justices of the Supreme Court shall be six years, except as herein provided. Each member of such court shall be a conservator of the peace throughout the state; and in case of a vacancy in the membership of said court, the Governor shall, by appointment from the district, fill such vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state.

SEC. 4. The term of office of the Justices of the Supreme Court shall commence on the second Monday of January following their election: Provided, however, That the term of office of the justices elected at the first election under this constitution shall commence upon the admission of the state into the union, and shall continue as hereinafter provided. Those appointed or elected to fill vacancies shall enter upon the discharge of their duties as soon as they qualify.

SEC. 5. The sessions of the supreme court shall be held at the seat of government, and the sessions and duration thereof shall be fixed by rule of said court, until fixed by the legislature; but the first term of the supreme court shall be held within ninety days after the admission of the state. The Supreme Court shall render a written opinion in each case within six months after said case shall have been submitted for decision.

SEC. 6. At the first session of the Supreme Court the justices thereof shall elect one of their number Chief Justice, who shall serve as Chief Justice, until the expiration of his term of office; thereafter the Chief Justice shall be elected in the manner provided by law. Of the justices elected at the first election, the term of two of them shall expire at the close of the day next preceding the second Monday in January, nineteen hundred and nine; and the term of two of the others shall expire at the close of the day next preceding the second Monday in January, nineteen hundred and eleven; and the term of the other justice shall expire at the close of the day next preceding the second Monday in January, nineteen hundred and thirteen. The supreme court shall, by order duly entered in its minutes,

provide means of determining by lot the expiration of the terms of each of the justices as hereinbefore provided, and shall determine in accordance therewith, and enter in the minutes of the court its order showing, the duration of the term of such justices. After the first election Justices of the Supreme Court shall be elected at the general biennial election next preceding the beginning of their respective terms.

SEC. 7. There shall be elected by the qualified electors of the state at each election for governor, a clerk of the supreme court, who shall be at least twenty-five years of age and a qualified elector of the state, and whose term shall be the same as that of the Governor, and he shall give bond for faithful performance of his duty as may be prescribed by law.

SEC. 8. The appellate and the original jurisdiction of the Supreme Court shall be invoked in the manner now prescribed by the laws of the Territory of Oklahoma until the legislature shall otherwise provide.

SEC. 9. Until otherwise provided by law, the state shall be divided into twenty-one judicial districts, and the qualified electors in each of the said districts shall elect a judge of the District Court as provided herein, except in the Thirteenth Judicial District, two judges shall be elected. Such judge shall be a citizen of the United States, and shall have been a resident of the territory embraced within the state for two years and of the territory comprising his district at least one year, prior to his election; and he shall have been a lawyer licensed by some court of record, or shall have been a judge of some court of record, or both such lawyer and judge, for four years next preceding his election and shall reside in his district during his term of office. The term of office of district judge shall be four years, and at the time of his election he shall have reached the age of twenty-five years. Regular terms of the district court shall be held in each organized county of this state at least twice in each year. The time of convening the district court in each county in this state, until the legislature shall otherwise provide and the duration of the term shall be fixed by the supreme court of the state. The term of the district judges elected at the first election shall expire on the last day next preceding the second Monday in January, nineteen hundred and eleven, and the judges of the district court thereafter shall be elected at the general election next preceding the commencement of their terms of office.

In case of the illness of the judge elected in any district, or if for any other cause he shall be unable to preside in the district in which he was elected, the chief justice may designate any district judge in the state to hold any term of court in said district in lieu of the judge elected to hold the courts of said district. Whenever the public business shall require it, the chief justice may appoint any district judge of the state to hold court in any district, and two or more district judges may sit in any district separately at the same time. In the event any judge shall be disqualified for any reason from trying any case in his district, the parties to such case may agree upon a judge pro tempore to try the same, and, if such parties cannot agree, at the request of either party, a judge pro tempore may be elected by the members of the bar of the district, present at such term. If no election for judge pro tempore shall be had, the chief justice of the state shall designate some other district judge to try such cases.

SEC. 10. The District Courts shall have original jurisdiction in all cases, civil and criminal, except where exclusive jurisdiction is by this constitution, or by law, conferred on some other court, and such appellate jurisdiction as may be provided in this constitution, or by law. The district courts, or any judge thereof, shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition and other writs, remedial or otherwise, necessary or proper to carry into effect their orders, judgments, or decrees. The district courts shall also have the power of naturalization in accordance with the laws of the United States.

SEC. 11. There is hereby established in each county in this state a county court, which shall be a court of record; and, at the election to ratify this constitution, there shall be elected in each county a county judge, who shall hold his office until the close of the day next preceding the second Monday in January, nineteen hundred and eleven; and thereafter the term of office of the county judge shall be two years, and he shall be elected at each biennial general election. The county judge shall be a qualified voter and a resident of the county at the time of his election, and a lawyer licensed to practice in the courts of record of the state. The County Judge shall be judge of the County Court.

SEC. 12. The county court, co-extensive with the county, shall have original jurisdiction in all probate matters, and until otherwise provided by law, shall have concurrent jurisdiction with the district court in civil cases in any amount not exceeding one thousand dollars, exclusive of interest: Provided, That the county court shall not have jurisdiction in any action for malicious prosecution, or in any action for divorce or alimony, or in any action against officers for misconduct in office, or in actions for slander or libel, or in

actions for the specific performance of contracts for the sale of real estate, or in any matter wherein the titles or boundaries of land may be in dispute or called in question; nor to order or decree the partition or sale of real estate, not arising under its probate jurisdiction.

It shall have such appellate jurisdiction of the judgments of justices of the peace in civil and criminal cases as may be provided by law, or in this constitution. The county court shall have jurisdiction concurrent with justices of the peace in misdemeanor cases, and exclusive jurisdiction in all misdemeanor cases of which justices of the peace have not jurisdiction. In the absence of the judge of the district court from the county, or in case of his disqualification for any reason, the county court, or judge thereof, shall have power to issue writs of injunction in matters about to be brought or pending in the district court; and to issue writs of injunction, mandamus and all writs necessary to enforce the jurisdiction of the county courts; and issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the county court of any other court or tribunal inferior to said court.

When the county judge is disqualified in any case pending in the county court, a judge pro tempore may be selected in the manner provided for the selection of judges pro tempore in the district court.

SEC. 13. The County Court shall have the general jurisdiction of a Probate Court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians; transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the sale, settlement, partition, and distribution of the estates thereof. The County Court shall be held at the county seat, but the Legislature may provide for holding sessions of the County Court at not more than two additional places in the county: Provided, That alternate sessions of County Court in LeFlore County shall be held at Talihina.

SEC. 14. Until otherwise provided by law, the county court shall have jurisdiction of all cases on appeals from judgments of the justices of the peace in civil and criminal cases; and in all cases, civil and criminal, appealed from justices of the peace to such county court, there shall be a trial de novo on questions of both law and fact.

SEC. 15. Appeals and proceedings in error shall be taken from the judgments of county courts direct to the Supreme Court, in all cases appealed from justices of the peace, and in all criminal cases of which the County Court is vested with jurisdiction, and in all civil cases originally brought in the County Court, in the same manner and by like proceedings as appeals are taken to the Supreme Court from the judgments of the District Court.

SEC. 16. Until otherwise provided by law, in all cases arising under the probate jurisdiction of the county court, appeals may be taken from the judgment of the county court to the district court of the county in the same manner as is now provided by the laws of the territory of Oklahoma for appeals from the probate court to the district court, and in all cases appeals from the county court to the district court, the cause shall be tried de novo in the district court upon questions of both law and fact.

SEC. 17. County courts shall also have and exercise the jurisdiction of examining and committing magistrates in all criminal cases.

SEC. 18. The office of justice of the peace is hereby created, and, until otherwise provided by law, courts of justice of the peace shall have, coextensive with the county, jurisdiction as examining and committing magistrates in all felony cases, and shall have jurisdiction, concurrent with the county court, in civil cases where the amount involved does not exceed two hundred dollars, exclusive of interest and costs, and concurrent jurisdiction with the county court in all misdemeanor cases in which the punishment does not exceed a fine of $200 or imprisonment in the county jail for not exceeding thirty days, or both such fine and imprisonment; but justices of the peace shall in no event have jurisdiction in actions for libel and slander. Until otherwise provided by law, appeals shall be allowed from judgments of the court of justices of the peace in all civil and criminal cases to the county court in the manner now provided by the laws of the Territory of Oklahoma governing appeals from the courts of justices of the peace to the district court. In cities of more than two thousand and five hundred inhabitants, two justices of the peace shall be elected.

SEC. 19. All judges of courts of this state, and justices of the peace, shall by virtue of their office, be conservators of the peace throughout the state.

The style of all writs and processes shall be "The State of Oklahoma." All prosecutions shall be carried on in the name and by the authority of the State of Oklahoma. All indictments, informations and complaints shall conclude, "Against the peace and dignity of the state."

SEC. 20. In all issues of fact, joined in any court, all parties may waive the right to have the same determined by jury; in which case the finding of the judge, upon the facts, shall have the force and effect of a verdict by jury.

SEC. 21. In all jury trials, the jury shall return a general verdict, and no law in force, nor any law hereafter enacted, shall require the court to direct the jury to make findings on particular questions of fact; but the court may, in its discretion, direct such special findings.

SEC. 22. The state is hereby divided into five Supreme Court judicial districts, numbered respectively, one to five, inclusive, and is sub-divided into twenty-one district court judicial districts, numbered, respectively, one to twenty-one, inclusive; and all such judicial districts shall be and remain until changed as provided in this constitution.

SEC. 23. Of the supreme court judicial districts, No. 1 shall embrace the 1st, 2d, 3d, and 4th district court judicial districts; No. 2 shall embrace the 5th, 6th, 7th, and 8th district court judicial districts; No. 3 shall embrace the 9th, 10th, 11th, 12th, and 21st district court judicial districts; No. 4 shall embrace the 13th, 14th, 15th, and 16th district court judicial districts, and No. 5 shall embrace the 17th, 18th, 19th, and 20th district court judicial districts.

SEC. 24. Of the district court judicial districts, number One shall comprise the counties of Adair, Cherokee, Delaware, and Sequoyah; number Two, the counties of Craig, Mayes, Nowata, Ottawa, Rogers, and Washington; number Three, the counties of Muskogee and Wagoner; number Four, the counties of McIntosh and Pittsburg; number Five, the counties of Haskell, Latimer, LeFlore, and Pushmataha; number Six, the counties of Bryan, Choctaw, Marshall, and McCurtain; number Seven, the counties of Atoka, Coal, Johnston, Pontotoc, and Seminole; number Eight, the counties of Carter and Love; number Nine, the counties of Hughes, Creek, Okfuskee, and Okmulgee; number Ten, the counties of Lincoln and Pottawatomie; number Eleven, the counties of Kingfisher and Logan; number Twelve, the counties of Grant, Kay, and Noble; number Thirteen, the counties of Canadian and Oklahoma, with two judges; number Fourteen, the counties of Cleveland, Garvin, McClain, and Murray; number Fifteen, the counties of Caddo, Grady, Jefferson, and Stephens; number Sixteen, the counties of Comanche, Jackson, and Tillman; number Seventeen, the counties of Blaine, Custer, Kiowa, and Washita; number Eighteen, the counties of Beckham, Dewey, Ellis, Greer, and Roger Mills; number Nineteen, the counties of Beaver, Cimarron, Harper, Texas, Woods, and Woodward; number Twenty, the counties of Alfalfa, Garfield, and Major; number Twenty-one, the counties of Osage, Payne, Pawnee, and Tulsa.

SEC. 25. The terms of district court shall be held at the county seats of the respective counties.

ARTICLE VIII.

Impeachment and Removal from Office.

SECTION 1. The Governor and other elective State officers, including the justices of the Supreme Court, shall be liable and subject to impeachment for willful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offense involving moral turpitude committed while in office.

SEC. 2. All elective officers not liable to impeachment shall be subject to removal from office in such manner and for such causes as may be provided by law.

SEC. 3. When sitting as a court of impeachment, the Senate shall be presided over by the Chief Justice, or if he is absent or disqualified, then one of the Associate Justices of the Supreme Court, to be selected by it, except in cases where all the members of said court are absent or disqualified, or in cases of impeachment of any Justice of the Supreme Court, then the Senate shall elect one of its own members as a presiding officer for such purpose. The House of Representatives shall present all impeachments.

SEC. 4. When the Senate is sitting as a court of Impeachment, the Senators shall be on oath, or affirmation, impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the Senators present.

SEC. 5. Judgment of impeachment shall not extend beyond removal from office, but this shall not prevent punishment of any such officer on charges growing out of the same matter by the courts of the State.

SEC. 6. The Legislature shall pass such laws as are necessary for carrying into effect the provisions of this article.

ARTICLE IX.

Corporations.

SECTION 1. As used in this article, the term "corporation" or "company" shall include all associations and joint stock companies having any power or privileges, not possessed by individuals, and exclude all municipal corporations and public institutions owned or controlled by the state; the term "charter" shall mean the charter of incorporation, by or under which any corporation is formed. The term "license" shall mean the authority under which all foreign corporations are permitted to transact business in this state.

SEC. 2. Every railroad, oil pipe, car, express, telephone or telegraph corporation or association organized or authorized to do a transportation or transmission business under the laws of this state for such purpose, shall, each respectively,

have the right to construct and operate its line between any points in this state, and as such to connect at the state line with like lines; and every such company shall have the right with its own road or line, to intersect, connect with, or cross any railroad or such line.

SEC. 3. Every railroad, car, or express company, shall each, respectively, receive and transport without delay or discrimination each other's cars, loaded or empty, tonnage, and passengers, under such rules and regulations as may be prescribed by law or any commission created by the constitution or by act of the legislature, for that purpose.

SEC. 4. All oil pipe companies shall be subject to the reasonable control and regulation of the corporation commission, and shall receive and transport each other's tonnage or oils, or commodities, under such rules and regulations as shall be prescribed by law, or such commission.

SEC. 5. All telephone and telegraph lines, operated for hire, shall each, respectively, receive and transmit each other's messages without delay or discrimination, and make physical connections with each other's lines, under such rules and regulations as shall be prescribed by law, or by any commission created by this constitution, or any act of the legislature, for that purpose.

SEC. 6. Railroads heretofore constructed, or which may hereafter be constructed in this state, are hereby declared public highways. Every railroad or other public service corporation organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state, for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporation, books, in which shall be recorded the amount of capital stock subscribed, the names of the owners of stock, the amounts owned by them, respectively; the amount of stock paid, and by whom; the transfer of said stock, with the date of transfer; the amount of its assets and liabilities, and the names and places of residence of its officers, and such other matters required by law or by order of the corporation commission. The directors of every railroad company, or other public service corporation shall hold at least one meeting annually in this state, public notice of which shall be given thirty days previously, and the president or superintendent of every railroad company and other public service corporation organized or doing business in this state under the laws of this state or the authority thereof, shall report annually under oath, and make such other reports as may be required by law or order of the corporation commission, to said commission, their acts and doings, which report shall include such matters relating to railroads and other public service corporations as may be prescribed by law. The legislature shall pass all necessary laws enforcing, by suitable penalties all the provisions of this section.

SEC. 7. The rolling stock and all other movable property belonging to any railroad, transportation, transmission, or other public service corporation in this state, shall be considered personal property, and its real and personal property, or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the legislature shall pass no laws exempting any such property from execution and sale.

SEC. 8. No public service corporation, or the lessees, purchasers, or managers thereof, shall consolidate the stock, property, or franchise, of such corporation with, or lease or purchase the works or franchises of or in any way control, any other public service corporation owning or having under its control a parallel or competing line; except by enactment of the legislature upon the recommendation of the corporation commission: Provided, however, That the legislature shall never enact any law permitting any public service corporation, the lessees, purchasers, or managers thereof when such public service corporation is organized under the laws of any other state, or of the United States, to consolidate the stock, property, or franchises, of such corporation with, or lease, or purchase, the works of, franchises of, or in any way control, any other public service corporation, organized under the laws of any other state, or of the United States, owning or having under its control in this state a parallel or competing line; nor shall any officer of such corporation act as an officer of any other corporation owning or controlling a parallel or competing line.

SEC. 9. Neither shall any railroad company, transportation company, or transmission company, organized under the laws in this state, consolidate by private or judicial sale, or otherwise, with any railroad company, transportation company, or transmission company organized under the laws of any other state, or of the United States.

SEC. 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town, or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street railroad.

SEC. 11. No railroad, transportation, transmission, or other public service corporation in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of the constitution, applicable to railroads, transportation companies, transmis-

sion companies, and other public service corporations: Provided, That nothing herein shall be construed as validating any charter which may be invalid, or waiving any of the conditions contained in any charter.

SEC. 12. No railroad company shall transport within this state, any article or commodity manufactured, mined, or produced by it, or under its authority, or which it may own, in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

SEC. 13. No railroad corporation or transportation company, or transmission company shall, directly or indirectly, issue or give any free frank or free ticket, free pass or other free transportation, for any use, within this state, except to its employees and their families, its officers, agents, surgeons, physicians, and attorneys at law; to ministers of religion, traveling secretaries for railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute, and homeless persons, and to such persons when transported by charitable societies or hospitals and the necessary agents employed in such transportations; to inmates of the National Homes, or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge, and boards of managers of such Homes; to members of volunteer fire departments and their equipage, while traveling as such; to necessary care takers of live stock, poultry, and fruit; to employees of sleeping cars, of express cars, and to linemen of telegraph and telephone companies; to railway mail service employees, post-office inspectors, custom inspectors, and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the railroad company or transportation company is interested, persons injured in wrecks, and physicians and nurses attending such persons: Provided, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers and their families; nor to prohibit any common carriers from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; nor to prevent them from transporting, free of charge to their places of employment persons entering their service, and the interchange of passes to that end; and any railroad, transportation, or transmission company or any person, other than the persons excepted in this provision, who grants or uses any such free frank, free ticket, free pass, or free transportation within this state, shall be deemed guilty of a crime, and the legislature shall provide proper penalties for the violation of any provision of this section by the railroad or transportation or transmission company, or by any individual: Provided, That nothing herein shall prevent the legislature from extending these provisions so as to exclude such free transportations or franks from other persons.

SEC. 14. No railroad hereafter constructed in this state shall pass within a distance of four miles of any county seat without passing through the same and establishing and maintaining a depot therein, unless prevented by natural obstacles such as streams, hills, or mountains: Provided, Such town, or its citizens, shall grant the right-of-way through its limits and sufficient ground for ordinary depot purposes.

SEC. 15. A corporation commission is hereby created, to be composed of three persons, who shall be elected by the people at a general election for state officers, and their terms of office shall be six years: Provided, Corporation commissioners first elected under this constitution shall hold office as follows: One shall serve until the second Monday in January, nineteen hundred and nine; one until the second Monday in January, nineteen hundred and eleven; and one until the second Monday in January, nineteen hundred and thirteen; their terms to be decided by lot immediately after they shall have qualified. In case of a vacancy in said office, the governor of the state shall fill such vacancy by appointment until the next general election, when a successor shall be elected to fill out any unexpired term.

SEC. 16. The qualifications of such commissioners shall be as follows: To be resident citizens of this state for over two years next preceding the election, and qualified voters under the constitution and laws, and not less than thirty years of age; nor shall such commissioners, or either of them, be, directly or indirectly, interested in any railroad, street railway, traction line, canal, steam boat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, operated for hire, in this state or out of it, or any stock, bond, mortgage, security, or earnings of any such railroad, street railway, traction line, canal, steam boat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, compress or elevator companies; and if such commissioner shall voluntarily become so interested, his office shall become vacant; and if any corporation commissioner shall become so interested otherwise than voluntarily, he shall, within a reasonable time, divest himself of such interest; and failing to do this, his office shall become vacant. Nor shall any such commissioner hold any other office under the government of

the United States, or of this state, or any other state government, and shall not, while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner.

SEC. 17. Before entering upon the duties of his office, each of said commissioners shall take and subscribe to the oath of office as prescribed in this constitution, and shall, in addition thereto, swear that he is not directly or indirectly, interested in any railroad, street railway, traction line, canal, steam boat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line, nor in the bonds, stocks, mortgages, securities, contract or earnings of any railroad, street railway, traction line, canal, steam boat, pipe line, car line, sleeping car line, car association, express line, telephone or telegraph line; and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this constitution, and all of the laws of this state concerning railroads, street railways, traction lines, canals, steam boats, pipe lines, car lines, sleeping car lines, car associations, express lines, telephone and telegraph lines, compress and elevator companies, and all other corporations over which said commission has jurisdiction, which oath shall be filed with the secretary of state.

SEC. 18. The commission shall have the power and authority and be charged with the duty of supervising, regulating, and controlling all transportation and transmission companies doing business in this state, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses and preventing unjust discrimination and extortion by such companies; and to that end the commission shall, from time to time, prescribe and enforce against such companies, in the manner hereinafter authorized, such rates, charges, classifications of traffic, and rules and regulations, and shall require them to establish and maintain all such public service, facilities, and conveniences as may be reasonable and just, which said rates, charges, classifications, rules, regulations, and requirements, the commission may, from time to time, alter and amend. All rates, charges, classifications, rules and regulations adopted, or acted upon, by any such company, inconsistent with those prescribed by the commission, within the scope of its authority, shall be unlawful and void. The commission shall also have the right, at all times, to inspect the books and papers of all transportation and transmission companies doing business in this state, and to require from such companies, from time to time, special reports and statements, under oath, concerning their business; it shall keep itself fully informed of the physical condition of all the railroads of the state, as to the manner in which they are operated, with reference to the security and accommodation of the public; and shall, from time to time, make and enforce such requirements, rules, and regulations as may be necessary to prevent unjust or unreasonable discrimination and extortion by any transportation or transmission company in favor of, or against any person, locality, community, connecting line, or kind of traffic, in the matter of car service, train or boat schedule, efficiency of transportation, or transmission, or otherwise, in connection with the public duties of such company. Before the commission shall prescribe or fix any rate, charge, or classification of traffic, and before it shall make any order, rule, regulation, or requirement directed against any one or more companies by name, the company or companies to be affected by such rate, charge, classification, order, rule, regulation, requirement, shall first be given, by the commission at least ten days' notice of the time and place, when and where the contemplated action in the premises will be considered and disposed of, and shall be afforded a reasonable opportunity to introduce evidence and to be heard thereon, to the end that justice may be done, and shall have process to enforce the attendance of witnesses; and before said commission shall make or prescribe any general order, rule, regulation, or requirement, not directed against any specific company or companies by name, the contemplated general order, rule, regulation, or requirement shall first be published in substance, not less than once a week for four consecutive weeks, in one or more of the newspapers of general circulation published in the county in which the capital of the state may be located, together with the notice of the time and place when and where the commission will hear any objections which may be urged by any person interested, against the proposed order, rule, regulation, or requirement; and every such general order, rule, regulation, or requirement, made by the commission, shall be published at length, for the time and in the manner above specified, before it shall go into effect, and shall also, so long as it remains in force, be published in each subsequent annual report of the commission. The authority of the commission (subject to review on appeal as hereinafter provided) to prescribe rates, charges, and classifications of traffic, for transportation and transmission companies, shall, subject to regulation by law, be paramount; but its authority to prescribe any other rules, regulations or requirements for corporations or other persons shall be subject to the superior authority of the legislature to legislate thereon by general laws: Provided, however, That nothing in this section shall impair the rights which have heretofore been, or may hereafter be conferred by law upon the authorities of any city, town, or

county to prescribe rules, regulations, or rates of charges to be observed by any public service corporation in connection with any services performed by it under a municipal or county franchise granted by such city, town, or county, so far as such services may be wholly within the limits of the city, town, or county granting the franchise. Upon the request of the parties interested, it shall be the duty of the commission, as far as possible, to effect, by mediation, the adjustment of claims and the settlement of controversies, between transportation or transmission companies and their patrons or employees.

SEC. 18a. The corporation commission shall organize by electing one of its members chairman and appointing a secretary, whose salary shall be fixed by the legislature. A majority of said commission shall constitute a quorum, and the concurrence of the majority of said commission shall be necessary to decide any question.

SEC. 18b. As used in this article, the term "company" shall include associations and joint stock companies having any power or privileges not possessed by individuals, and include all corporations except municipal corporations and public institutions owned or controlled by the state.

SEC. 19. In all matters pertaining to the public visitation, regulation, or control of corporations, and within the jurisdiction of the commission, it shall have the powers and authority of a court of record, to administer oaths, to compel the attendance of witnesses, and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of the commission while in session, and to enforce compliance with any of its lawful orders or requirements by adjudging, and by enforcing its own appropriate process, against the delinquent or offending party or company (after it shall have been first duly cited, proceeded against by due process of law before the commission sitting as a court, and afforded opportunity to introduce evidence and to be heard, as well against the validity, justness, or reasonableness of the order or requirement alleged to have been violated as against the liability of the company for the alleged violation), such fines or other penalties as may be prescribed or authorized by this constitution or by law. The commission may be vested with such additional powers, and charged with such other duties (not inconsistent with this constitution) as may be prescribed by law, in connection with the visitation, regulation, or control of corporations, or with the prescribing and enforcing of rates and charges to be observed in the conduct of any business where the state has the right to prescribe the rates and charges in connection therewith, or with the assessment of the property of corporations, or the appraisement of their franchises, for taxation, or with the investigation of the subject of taxation generally. Any corporation failing or refusing to obey any valid order or requirement of the commission, within reasonable time, not less than ten days, as shall be fixed in the order, may be fined by the commission (proceeding by due process of law as aforesaid) such sum, not exceeding five hundred dollars, as the commission may deem proper, or such sum, in excess of five hundred dollars, as may be prescribed or authorized by law; and each day's continuance of such failure or refusal, after due service upon such corporation of the order or requirement of the commission, shall be a separate offense: Provided, That should the operation of such order or requirement be suspended, pending any appeal therefrom, the period of such suspension shall not be computed against the company in the matter of its liability to fines or penalties.

SEC. 20. From any action of the commission prescribing rates, charges, or classifications of traffic, or affecting the train schedule of any transportation company, or requiring additional facilities, conveniences, or public service of any transmission and transportation company or refusing to approve a suspending bond, or requiring additional security thereon or an increase thereof, as hereinafter provided for, an appeal (subject to such reasonable limitations as to time, regulations as to procedure and provisions as to costs, as may be prescribed by law) may be taken by the corporation whose rates, charges or classification of traffic, schedule, facilities, conveniences, or service, are affected, or by any person deeming himself aggrieved by such action, or (if allowed by law) by the state. Until otherwise provided by law, such appeal shall be taken in the manner in which appeal may be taken to the supreme court from the district courts except that such an appeal shall be of right, and the supreme court may provide by rule for proceedings in the matter of appeals in any particular in which existing rules of law are inapplicable. If such appeal be taken by the corporation whose rates, charges or classifications of traffic, schedules, facilities, conveniences, or service are affected, the state shall be made the appellee; but, in the other cases mentioned the corporation so affected shall be made the appellee. The legislature may also by general laws provide for appeals from any other action of the commission, by the state, or by any person interested, irrespective of the amount involved. All appeals from the commission shall be to the Supreme Court only, and in all appeals to which the state is a party, it shall be represented by the attorney general or his legally appointed representative. No court of this state (except the Supreme Court, by way of appeals as herein authorized) shall have jurisdiction to review, reverse,

correct, or annul any action of the commission with the scope of its authority, or to suspend or delay the execution or operation thereof, or to enjoin, restrain, or interfere with the commission in the performance of its official duties: Provided, however, That the writs of mandamus and prohibition shall lie from the Supreme Court to the commission in all cases where such writs, respectively, would lie to any inferior court or officer.

SEC. 21. Upon the granting of an appeal, a writ of supersedeas may be awarded by the supreme court, suspending the operation of the action appealed from until the final disposition of the appeal; but, prior to the final reversal thereof by the supreme court, no action of the commission prescribing or affecting the rates, charges, or classifications of traffic of any transportation or transmission company shall be delayed, or suspended, in its operation by reason of any appeal by such corporation, or by reason of any proceeding resulting from such appeal, until a suspending bond shall first have been executed and filed with, and approved by the commission (or approved on review, by the supreme court), payable to the state and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive pending the appeal in excess of those fixed or authorized, by the final decision of the court on appeal. The commission, upon the execution of such bond, shall forthwith require the appealing company, under penalty of the immediate enforcement (pending the appeal and notwithstanding any supersedeas), of the order or requirement appealed from to keep such accounts, and to make to the commission from time to time, such reports verified by oath, as may, in the judgment of the commission, suffice to show the amounts being charged or received by the company, pending the appeal, in excess of the charge allowed by the action of the commission appealed from, together with the names and addresses of the persons to whom such overcharges will be refundable in case the charges made by the company pending the appeal be not sustained on such appeal; and the commission shall also, from time to time, require such company, under like penalty, to give additional security on, or to increase the said suspending bond, whenever, in the opinion of the commission, the same may be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final decision of such appeal, all amounts which the appealing company may have collected, pending the appeal, in excess of that authorized by such final decision, shall be promptly refunded by the company to the parties entitled thereto, in such manner and through such methods of distribution as may be prescribed by the commission, or by law. All such appeals, affecting rates, charges, or classifications of traffic, shall have precedence upon the docket of the supreme court, and shall be heard and disposed of promptly by the court, irrespective of its place of session, next after the habeas corpus and state cases already on the docket of the court.

SEC. 22. In no case of appeal from the commission, shall any new or additional evidence be introduced in the supreme court; but the chairman of the commission, under the seal of the commission, shall certify to the Supreme Court all the facts upon which the action appealed from was based and which may be essential for the proper decision of the appeal, together with such of the evidence introduced before, or considered by, the commission as may be selected, specified, and required to be certified by any party in interest, as well as such other evidence, so introduced or considered as the commission may deem proper to certify. The commission shall whenever an appeal is taken therefrom, file with the record of the case, and as a part thereof, a written statement of the reasons upon which the action appealed from was based, and such statement shall be read and considered by the supreme court, upon disposing of the appeal. The supreme court shall have jurisdiction, on such appeal, to consider and determine the reasonableness and justness of the action of the commission appealed from, as well as any other matter arising under such appeal: Provided, however, That the action of the commission appealed from shall be regarded as prima facie just, reasonable, and correct; but the court may, when it deems necessary, in the interest of justice, remand to the commission any case pending on appeal, and require the same to be further investigated by the commission and reported upon to the court (together with a certificate of such additional evidence as may be tendered before the commission by any party in interest), before the appeal is finally decided.

SEC. 23. Whenever the court, upon appeal, shall reverse an order of the commission affecting the rates, charges, or the classifications of traffic of any transportation or transmission company, it shall, at the same time, substitute therefor such orders as, in its opinion, the commission should have made at the time of entering the order appealed from; otherwise the reversal order shall not be valid. Such substituted order shall have the same force and effect (and none other) as if it had been entered by the commission at the time the original order appealed from was entered. The right of the commission to prescribe and enforce rates, charges, classifications, rules and regulations affecting any or all actions of the commission theretofore entered by it and appealed

from, but based upon circumstances or conditions different from those existing at the time the order appealed from was made, shall not be suspended or impaired by reason of the pendency of such appeal; but no order of the commission, prescribing or altering such rates, charges, classifications, rules, or regulations, shall be retroactive.

SEC. 24. The right of any person to institute and prosecute in the ordinary courts of justice, any action, suit or motion against any transportation or transmission company, for any claim or cause of action against such company, shall not be extinguished or impaired, by reason of any fine or other penalty which the commission may impose, or be authorized to impose, upon such company because of its breach of any public duty, or because of its failure to comply with any order or requirement of the commission; but, in no such proceeding by any person against such corporation, nor in any collateral proceeding shall the reasonableness, justness, or validity of any rate, charge, classification of traffic, rule, regulation, or requirement, theretofore prescribed by the commission, within the scope of its authority, and then in force, be questioned: Provided, however, That no case based upon or involving any order of the commission shall be heard or disposed of against the objection of either party, so long as such order is suspended in its operation by an order of the Supreme Court as authorized by this constitution or by any law passed in pursuance thereof.

SEC. 25. The commission shall make annual reports to the governor of its proceedings, in which reports it shall recommend, from time to time, such new or additional legislation in reference to its powers or duties, or the creation, supervision, regulation or control of corporations, or to the subject of taxation, as it may deem wise or expedient, or as may be required by law.

SEC. 26. It shall be the duty of each and every railway company, subject to the provisions herein, to provide and maintain adequate, comfortable, and clean depots, and depot buildings, at its several stations, for the accommodation of passengers, and said depot buildings shall be kept well lighted and warmed for the comfort and accommodation of the traveling public; and all such roads shall keep and maintain adequate and suitable freight depots and buildings for the receiving, handling, storing, and delivering of all freight handled by such roads.

SEC. 27. In case any railroad company shall hereafter seek to cross at grade with its track or tracks, the track or tracks of another railroad, the railroad seeking to cross at grade, within a reasonable time, shall be compelled to interlock or protect such crossings by safety devices, to be designated by the commission, and all costs of appliance, together with the expenses of putting them in, shall be borne equally by each company. Provided, That this act shall not apply to crossings of sidetracks.

SEC. 28. The commissioners, or either of them, or such persons as they may employ therefor, shall have the right, at such time as they may deem necessary, to inspect the books and papers of any railroad company or other public service corporation, and to examine, under oath, any officer, agent, or employee of such corporations in relation to the business and affairs of the same. If any railroad company or other public service corporation shall refuse to permit the commissioners, or either of them, or any person authorized thereto, to examine its books and papers, such railroad company or other public service corporation shall, until otherwise provided by law, for each offense, pay to the state of Oklahoma not less than one hundred and twenty-five dollars, nor more than five hundred dollars, for each day it shall so fail or refuse, and the officer or other person so refusing shall be punished as the law shall prescribe.

SEC. 29. The commission shall ascertain and enter of record, the same to be a public record, as early as practicable, the amount of money expended in construction and equipment per mile of every railroad and other public service corporation in Oklahoma, the amount of money expended to procure the right of way, and the amount of money it would require to reconstruct the roadbed, track, depots, and transportation facilities, and to replace all the physical properties belonging to the railroad or other public service corporation. It shall also ascertain the outstanding bonds, debentures, and indebtedness, and the amount, respectively, thereof, when issued, and rate of interest, when due, for what purposes issued, how used, to whom issued, to whom sold, and the price in cash, property, or labor, if any, received therefor, what became of the proceeds, by whom the indebtedness is held, the amount purporting to be due thereon, the floating indebtedness of the company, to whom due, and his address, the credits due on it, the property on hand belonging to the railroad company or other public service corporation, and the judicial or other sales of said road, its property or franchises, and the amounts purporting to have been paid and in what manner paid therefor. The commission shall also ascertain the amounts paid for salaries to the officers of the railroad, or other public service corporation, and the wages paid its employees. For the purpose in this section named, the commission may employ experts to assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the attorney general by report, and

file a duplicate thereof with the state examiner and inspector for public use, and said information shall be printed, from time to time, in the annual report of the commission.

SEC. 30. No transportation or transmission company shall charge or receive any greater compensation, in the aggregate, for transporting the same class of passengers or property, or for transmitting the same class of messages, over a shorter than a longer distance, along the same line and in the same direction—the shorter being included in the longer distance; but this section shall not be construed as authorizing any such company to charge or receive as great compensation for a shorter as for a longer distance. The commission may, from time to time, authorize any such company to disregard the foregoing provisions of this section, by charging such rates as the commission may prescribe as just and equitable between such company and the public, to or from any junctional or competitive points or localities, or where the competition of points located without this state may make necessary the prescribing of special rates for the protection of the commerce of this state; but this section shall not apply to mileage tickets, or to any special excursion, or commutation rates, or to special rates for service rendered to this state, or to the United States, or in the interest of some public object, when such tickets or rates shall have been prescribed or authorized by the commission.

SEC. 31. No railroad, oil pipe line, telephone, telegraph, express or car corporation organized under the laws of any other state, or of the United States, and doing business, or proposing to do business in this state, shall be entitled to the benefit of the right of eminent domain in this state until it shall have become a body corporate pursuant to or in accordance with the laws of this state.

SEC. 32. The said commission shall have the power, and it is hereby made its duty, to investigate all through freight or passenger rates on railroads in this state, and when the same are, in the opinion of the commission, excessive or levied or laid in violation of the interstate commerce law, or the rules and regulations of the interstate commerce commission, the proper officials of the railroads are to be notified of the facts and requested to reduce them or make the proper corrections, as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the commission it shall be the duty of the latter to notify the interstate commerce commission and to make proper application to it for relief, and the attorney general or such other person as may be designated by law shall represent the commission in all such matters.

SEC. 33. Any person, firm or corporation owning or operating any coal, lead, iron, or zinc mine, or any saw mill, grain elevator, or other industry, whenever the commission shall reasonably determine that the amount of business is sufficient to justify the same, near or within a reasonable distance of any track, may, at the expense of such person, firms, or corporation build and keep in repair a switch leading from such railroad to such mine, saw mill, elevator, or other industry; such railroad company shall be required to furnish the switch stand and frog and other necessary material for making connection with such side-track or spur under such reasonable terms, conditions and regulations as the said commission may prescribe, and shall make connection therewith. The party owning such line, saw mill, elevator or other industry shall pay the actual cost thereof. If any railroad company, after proper demand therefor is made, shall refuse to furnish such material for making such connections and put the same in place, or after the building of such switch, shall fail or refuse to operate the same, such railroad company failing and refusing for a reasonable time, shall forfeit and pay to the party or corporation aggrieved, the sum of five hundred dollars for each and every offense, to be recovered by civil action in any court of competent jurisdiction; and every day of such refusal on the part of the railroad company to operate such switch as aforesaid, after such demand is made, shall be deemed a separate offense.

SEC. 34. As used in this article, the term "transportation company" shall include any company, corporation, trustee, receiver, or any other person owning, leasing, or operating for hire, a railroad, street railway, canal, steam boat line, and also any freight car company, car association, express company, sleeping car company, car corporation, or company, trustee or person in any way engaged in such business as a common carrier over a route acquired in whole or in part under the right of eminent domain, or any grant from the government of the United States; the term "rate" shall be construed to mean rate of charge for any service rendered, or to be rendered; the terms "rate," "charge," and "regulation," shall include joint rates, joint charges and joint regulations, respectively; the term "transmission company" shall include any company, receiver or other person, owning, leasing, or operating for hire any telegraph or telephone line; the term "freight" shall be construed to mean any property transported or received for transportation, by any transportation company, the term "public service corporation" shall include all transportation and transmission companies, all gas, electric light, heat and power companies, and all persons authorized to exercise

the right of eminent domain or to use or occupy any right of way, street, alley, or public highway, whether along, over, or under the same, in a manner not permitted to the general public; the term "person" as used in this article, shall include individuals, partnerships and corporations, in the singular as well as plural number; the term "bond" shall mean all certificates or written evidences of indebtedness issued by any corporation and secured by mortgage or trust deed. The term "frank" shall mean any writing or token issued by or under authority of a transmission company, entitling the holder to any service from such company free of charge.

The provisions of this article shall always be so restricted in their application as not to conflict with any of the provisions of the constitution of the United States, and as if the necessary limitations upon their interpretation had been herein expressed in each case.

SEC. 35. After the second Monday in January, nineteen hundred and nine, the legislature may, by law, from time to time alter, amend, revise, or repeal sections from eighteen to thirty-four, inclusive, of this article, or any of them, or any amendments thereof: Provided, That no amendment made under authority of this section shall contravene the provisions of any part of this constitution other than the said sections last above referred to or any such amendments thereof.

SEC. 36. The common law doctrine of the fellow servant, so far as it affects the liability of the master for injuries to his servant, resulting from the acts or omission of any other servant or servants of the common master, is abrogated as to every employe of every railroad company, or interurban railway company and every street railway and of every person, firm or corporation engaged in mining in this state; and every such employe shall have the same right to recover for every injury suffered by him for the acts or omissions of any other employe or employes of the common master that a servant would have if such acts or omissions were those of the master himself in the performance of a non-assignable duty; and when death, whether instantaneous or not, results to such employe from any injury for which he could have recovered under the above provisions, had not death occurred, then his legal or personal representative, surviving consort or relative, or any trustee, curator, committee or guardian of such consort or relatives, shall have the same rights and remedies with respect thereto as if death had been caused by the negligence of the master. And every railroad company, street railway company and interurban railway company and every person, firm or corporation engaged in underground mining in this state shall be liable under the above provisions, for the acts of its trustees or receivers.

Nothing contained in this section shall restrict the power of the legislature to extend to the employes of any person, the above provisions, for the acts of his or its trustees or receivers.

SEC. 37. No person, company or corporation, receiver or other agency, operating a railroad, other than street railroad or electric railroad, in whole or in part, within this state, shall demand or receive for first class transportation for each passenger, between points within this state on the portion of its road operated within this state, more than two cents per mile, until otherwise provided by law; provided, however, the corporation commission shall have the power to exempt any railroad from the operation of this section upon satisfactory proof that it cannot earn a just compensation for the services rendered by it to the public, if not permitted to charge more than two cents per mile for the transportation of passengers within this state.

SEC. 38. No private corporation shall be created nor foreign corporation licensed to conduct business in this state except by general law.

SEC. 39. No corporation shall issue stock except for money, labor done, or property actually received to the amount of the par value thereof, and all fictitious increase of stock or indebtedness shall be void, and the legislature shall prescribe the necessary regulations to prevent the issue of fictitious stock or indebtedness. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after thirty days' notice given in pursuance of law.

SEC. 40. No corporation organized or doing business in this state shall be permitted to influence elections or official duty by contributions of money or any thing of value.

SEC. 41. No corporation chartered or licensed to do business in this state shall own, hold, or control, in any manner whatever, the stock of any competitive corporations engaged in the same kind of business in or out of the state, except such stock as may be pledged in good faith to secure bona fide indebtedness acquired upon foreclosure, execution sale or otherwise for the satisfaction of debt. In all cases where any corporation acquires stock in any other corporation, as herein provided, it shall be required to dispose of the same within twelve months from the date of acquisition; and during the period of its ownership of such stock it shall have no right to participate in the control of such corporation, except when permitted by order of the corporation commis-

sion. No trust company, or bank or banking company shall own, hold or control, in any manner whatever, the stock of any other trust company, or bank or banking company, except such stock as may be pledged in good faith to secure bona fide indebtedness, acquired upon foreclosure, execution sale, or otherwise for the satisfaction of debt; and such stock shall be disposed of in the time and manner hereinbefore provided.

SEC. 42. Every license issued or charter granted to a mining or public service corporation, foreign or domestic, shall contain a stipulation that such corporation will submit any difference it may have with employes in reference to labor, to arbitration, as shall be provided by law.

SEC. 43. No corporation, foreign or domestic, shall be permitted to do business in this State without first filing in the office of the corporation commission a list of its stockholders, officers and directors, with the residence and postoffice address of, and the amount of stock held by each. And every foreign corporation shall, before being licensed to do business in the State, designate an agent residing in the state; and service of summons or legal notice may be had on such designated agent and such other agents as now are or may hereafter be provided for by law. Suit may be maintained against a foreign corporation in the county where an agent of such corporation may be found, or in the county of the residence of plaintiff, or in the county where the cause of action may arise.

SEC. 44. No foreign corporation shall be authorized to carry on in this State any business which a domestic corporation is prohibited from doing or be relieved from compliance with any of the requirements made of a similar domestic corporation by the Constitution or laws of the State. Nothing in this article, however, shall restrict or limit the power of the Legislature to impose conditions under which foreign corporations may be licensed to do business in this State.

SEC. 45. Until otherwise provided by law, no person, firm, association, or corporation engaged in the production, manufacture, distribution or sale of any commodity of general use, shall, for the purpose of creating a monopoly or destroying competition in trade, discriminate between different persons, associations, or corporations, or different sections, communities, or cities of the State, by selling such commodity at a lower rate in one section, community, or city than in another, after making due allowance for the difference, if any, in the grade, quantity, or quality, and in the actual cost of transportation from the point of production or manufacture.

SEC. 46. All existing charters or grants of special or exclusive privileges under which a bona fide organization shall not have taken place and business commenced in good faith at the time this Constitution becomes effective, shall thereafter have no validity.

SEC. 47. The Legislature shall have power to alter, amend, annul, revoke, or repeal any charter of incorporation or franchise now existing and subject to be altered, amended, annulled, revoked, or repealed at the time of the adoption of this constitution, or any that may be hereafter created, whenever in its opinion it may be injurious to the citizens of this State, in such manner, however, that no injustice shall be done to the incorporators.

SEC. 48. The Legislature shall provide such penalties and regulations as may be necessary for the proper enforcement of the provisions of this article.

ARTICLE X.

Revenue and Taxation.

SECTION 1. The fiscal year shall commence on the first day of July in each year, unless otherwise provided by law.

SEC. 2. The Legislature shall provide by law for an annual tax sufficient, with other resources, to defray the estimated ordinary expenses of the State for each fiscal year.

SEC. 3. Whenever the expenses of any fiscal year shall exceed the income, the legislature may provide for levying a tax for the ensuing fiscal year, which, with other resources, shall be sufficient to pay the deficiency, as well as the estimated ordinary expenses of the State for the ensuing year.

SEC. 4. For the purpose of paying the State debt, if any, the Legislature shall provide for levying a tax, annually, sufficient to pay the annual interest and principal of such debt within twenty-five years from the final passage of the law creating the debt.

SEC. 5. The power of taxation shall never be surrendered, suspended, or contracted away. Taxes shall be uniform upon the same class of subjects.

SEC. 6. All property used for free public libraries, free museums, public cemeteries, property used exclusively for schools, colleges, and all property used exclusively for religious and charitable purposes, and all property of the United States, and of this State, and of counties and of municipalities of this State; household goods of the heads of families, tools, implements, and live stock employed in the support of the family, not exceeding one hundred dollars in value, and all growing crops, shall be exempt from taxation: Provided, That all property not herein specified now exempt from taxation under the laws of the Territory of Oklahoma, shall be exempt from taxation until otherwise provided by law: And provided further, That there shall be exempt from

taxation, to all ex-Union and ex-Confederate soldiers, bona fide residents of this State, and to all widows of ex-Union and ex-Confederate soldiers, who are heads of families and bona fide residents of this States, personal property not exceeding two hundred dollars in value.

All property owned by the Murrow Indian Orphan Home, located in Coal County, and all property owned by the Whittaker Orphan Home, located in Mayes County, so long as the same shall be used exclusively as free homes or schools for orphan children, and for poor and indigent persons, and all fraternal orphan homes, and other orphan homes, together with all their charitable funds, shall be exempt from taxation, and such property as may be exempt by reason of treaty stipulation, existing between the Indians and the United States government, or by Federal laws, during the force and effect of such treaties or Federal laws. The Legislature may authorize any incorporated city or town, by a majority vote of its electors voting thereon, to exempt manufacturing establishments and public utilities from municipal taxation, for a period not exceeding five years, as an inducement to their location.

SEC. 7. The Legislature may authorize county and municipal corporations to levy and collect assessments for local improvements upon property benefited thereby, homesteads included, without regard to a cash valuation.

SEC. 8. All property which may be taxed advalorem shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale; and any officer, or other person authorized to assess values, or subjects, for taxation, who shall commit any willful error in the performance of his duty, shall be deemed guilty of malfeasance, and upon conviction thereof shall forfeit his office, and be otherwise punished as may be provided by law.

SEC. 9. Except as herein otherwise provided, the total taxes on an advalorem basis for all purposes, state, county, township, city, or town and school district taxes, shall not exceed in any one year, thirty-one and one-half mills on the dollar, to be divided as follows:

State levy, not more than three and one-half mills; county levy, not more than eight mills: Provided, That any county may levy not exceeding two mills additional for county high school and aid to the common schools of the county, not over one mill of which shall be for such high school, and the aid to said common schools shall be apportioned as provided by law; township levy, not more than five mills; city or town levy, not more than ten mills; school district levy, not more than five mills on the dollar for school district purposes, for support of common schools: Provided, That the aforesaid annual rate for school purposes may be increased by any school district by an amount not to exceed ten mills on the dollar valuation, on condition that a majority of the voters thereof voting at an election, vote for said increase.

SEC. 10. For the purpose of erecting public buildings in counties, cities or school districts, the rates of taxation herein limited, may be increased, when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and a majority of the qualified voters of such county, city, or school district, voting at such election, shall vote there for: Provided, That such increase shall not exceed five mills on the dollar of the assessed value of the taxable property in such county, city, or school district.

SEC. 11. The receiving, directly or indirectly, by any officer of the State, or of any county, city or town, or member or officer of the Legislature, of any interest, profit, or perquisites, arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for State, city, town, district, or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

SEC. 12. The Legislature shall have power to provide for the levy and collection of license, franchise, gross revenue, excise, income, collateral and direct inheritance, legacy, and succession taxes; also graduated income taxes, graduated collateral and direct inheritance taxes, graduated legacy and succession taxes; also stamp, registration, production or other specific taxes.

SEC. 13. The State may select its subjects of taxation, and levy and collect its revenues independent of the counties, cities, or other municipal subdivisions.

SEC. 14. Taxes shall be levied and collected by general laws, and for public purposes only, except that taxes may be levied when necessary to carry into effect Section thirty-one of the Bill of Rights. Except as required by the Enabling Act, the State shall not assume the debt of any county, municipal corporation, or political subdivisions of the State, unless such debt shall have been contracted to defend itself in time of war, to repel invasion, or to suppress insurrection.

SEC. 15. The credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State; nor shall the State become an owner or stockholder in nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

SEC. 16. All laws authorizing the borrowing of money by and on behalf of the State, county, or

other political subdivision of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose.

SEC. 17. The Legislature shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to loan its credit to any corporation, association, or individual.

SEC. 18. The Legislature may authorize the levy and collection of a poll tax on all electors of this State, under sixty years of age, not exceeding two dollars per capita, per annum, and may provide a penalty for the non-payment thereof.

SEC. 19. Every act enacted by the Legislature, and every ordinance and resolution passed by any county, city, town, or municipal board or local legislative body, levying a tax, shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

SEC. 20. The Legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may, by general laws, confer on the proper authorities thereof, respectively, the power to assess and collect such taxes.

SEC. 21. There shall be a State Board of Equalization consisting of the Governor, State Auditor, State Treasurer, Secretary of State, Attorney General, State Inspector and Examiner, and President of the Board of Agriculture. The duty of said Board shall be to adjust and equalize the valuation of real and personal property of the several counties in the State, and it shall perform such other duties as may be prescribed by law, and they assess all railroad and public service corporation property.

SEC. 22. Nothing in this Constitution shall be held, or construed, to prevent the classification of property for purposes of taxation; and the valuation of different classes by different means or methods.

SEC. 23. The State may, to meet casual deficits or failure in revenue or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed four hundred thousand dollars, and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained or to repay the debts so contracted, and to no other purpose whatever.

SEC. 24. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection or to defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 25. Except the debts specified in sections twenty-three and twenty-four of this article, no debts shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by law for some work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty-five years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either House of the Legislature, the question shall be taken by yeas and nays, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

SEC. 26. No county, city, town, township, school district, or other political corporation, or subdivision of the State, shall be allowed to become indebted, in any manner, or for any purpose, to an amount exceeding, in any year, the income and revenue provided for such year without the assent of three-fifths of the voters thereof, voting at an election, to be held for that purpose, nor in cases requiring such assent, shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum of the valuation of the taxable property therein, to be ascertained from the last assessment for State and county purposes previous to the incurring of such indebtedness: Provided, That any county, city, town, township, school district, or other political corporation, or subdivision of the State, incurring any indebtedness, requiring the assent of the voters as aforesaid, shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty-five years from the time of contracting the same.

SEC. 27. Any incorporated city or town in this State may, by a majority of the qualified property tax paying voters of such city or town, voting at an election to be held for that purpose, be allowed to become indebted in a larger amount than that specified in section twenty-six, for the purpose of purchasing or constructing public utilities, or for repairing the same, to be owned exclusively by such city: Provided, That any such city or town incurring any such indebtedness requiring the assent of the voters as aforesaid, shall have the power to provide for, and, before or at the time

of incurring such indebtedness, shall provide for the collection of an annual tax in addition to the other taxes provided for by this Constitution, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty-five years from the time of contracting the same.

SEC. 28. Counties, townships, school districts, cities and towns shall levy sufficient additional revenue to create a sinking fund to be used, first, for the payment of interest coupons as they fall due; second, for the payment of bonds as they fall due; third, for the payment of such parts of judgments as such municipality may, by law, be required to pay.

SEC. 29. No bond or evidence of indebtedness of this State shall be valid unless the same shall have endorsed thereon a certificate, signed by the Auditor and Attorney General of the State, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or any other political subdivision of any county, shall be valid unless the same have endorsed thereon a certificate signed by the County Clerk, or other officer authorized by law to sign such certificate, and the County Attorney of the county, stating that said bond, or evidence of debt, is issued pursuant to law, and that said issue is within the debt limit.

SEC. 30. The Legislature shall require all money collected by taxation, or by fees, fines, and public charges of every kind, to be accounted for by a system of accounting that shall be uniform for each class of accounts, State and local, which shall be prescribed and audited by authority of the State.

ARTICLE XI.

State and School Lands.

SECTION 1. The State hereby accepts all grants of land and donations of money made by the United States under the provisions of the enabling act and any other acts of congress for the uses and purposes and upon the conditions, and under the limitations for which the same are granted or donated. And the faith of the State is hereby pledged to preserve such lands and moneys derived from the sale of any of said lands as a sacred trust, and to keep the same for the uses and purposes for which they were donated.

SEC. 2. All proceeds of the sale of public lands that have heretofore been or may be hereafter given by the United States for the use and benefit of the common schools of this State, all such per centum as may be granted by the United States on the sales of public lands, the sum of five million dollars appropriated to the State for the use and benefit of the common schools in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory, the proceeds of all property, that shall fall to the State by escheat, the proceeds of all gifts or donations to the State for common schools not otherwise appropriated by the terms of the gifts, and such other appropriations, gifts or donations as shall be made by the legislature for the benefit of the common schools, shall constitute the permanent school fund, the income from which shall be used for the maintenance of the common schools in the State. The principal shall be deemed a trust fund held by the State, and shall forever remain inviolate. It may be increased, but shall never be diminished. The State shall reimburse said permanent school fund for all losses thereof which may in any manner occur, and no portion of said fund shall be diverted for any other use or purpose.

SEC. 3. The interest and income of the permanent school fund, the net income from the leasing of public lands which have been or may be granted by the United States to the State for the use and benefit of the common schools, together with any revenues derived from taxes authorized to be levied for such purposes, and any other sums which may be added thereto by law, shall be used and applied each year for the benefit of the common schools of the State, and shall be, for this purpose, apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, and no part of the fund shall ever be diverted, from this purpose, or used for any other purpose than the support and maintenance of public schools for the equal benefit of all the people of the State.

SEC. 4. All public lands set apart to the State by congress for charitable, penal, educational and public building purposes, and all lands taken in lieu thereof, may be sold by the State, under such rules and regulations as the legislature may prescribe, in conformity with the regulations of the enabling act.

SEC. 5. Section thirteen in every portion of the State, which has been granted to the State, shall be preserved for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established, or hereafter to be established, one-third; and of the Agricultural and Mechanical College and Colored Agricultural and Normal University, one-third. The said lands or the proceeds thereof as above apportioned to be divided between the institutions as the legislature may prescribe: Provided, That the said lands so reserved, or the proceeds of the sale thereof, or of any indemnity lands granted in lieu of section thirteen shall be safely kept or invested and preserved by the State as a trust, which shall never be dimin-

ished, but may be added to, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of the State and no part of the proceeds arising from the sale or disposal of any lands granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university, and no portion of the funds arising from the sale of sections thirteen or any indemnity lands selected in lieu thereof, either principal or interest, shall ever be diverted, either temporarily or permanently, from the purpose for which said lands were granted to the State.

SEC. 6. The permanent common school and other educational funds shall be invested in first mortgages upon good and improved farm lands within the State (and in no case shall more than fifty per centum of the reasonable valuation of the lands without improvements be loaned on any tract), Oklahoma State bonds, county bonds of the counties of Oklahoma, school district bonds of the school districts of Oklahoma, United States bonds; preference to be given to the securities in the order named.

The legislature shall provide the manner of selecting the securities aforesaid, prescribe the rules, regulations, restrictions and conditions upon which the funds aforesaid shall be loaned or invested, and do all things necessary for the safety of the funds and permanency of the investment.

ARTICLE XII.

Homesteads and Exemptions.

SECTION 1. The homestead of any family in this State, not within any city, town or village, shall consist of not more than 160 acres of land, which may be in one or more parcels, to be selected by the owner. The homestead within any city, town or village, owned and occupied as a residence only, shall consist of not exceeding one acre of land, to be selected by the owner; provided, that the same shall not exceed in value the sum of $5,000, and in no event shall the homestead be reduced to less than one-quarter of an acre, without regard to value; and provided, further, that in case said homestead is used for both residence and business purposes, the homestead interests therein shall not exceed in value the sum of $5,000; provided, that nothing in the laws of the United States or any treaties with the Indian tribes in the State shall deprive any Indian or other allottee of the benefits of the homestead and exemption laws of this State; and provided, further, that any temporary renting of the homestead shall not change the character of the same, when no other homestead has been acquired.

SEC. 2. The homestead of the family shall be, and is hereby protected from forced sale, for the payment of debts, except for the purchase money therefor or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon; nor shall the owner, if married, sell the homestead without the consent of his or her spouse, given in such manner as may be prescribed by law: Provided, Nothing in this article shall prohibit any person from mortgaging his homestead, the spouse, if any, joining therein; nor prevent the sale thereof on foreclosure to satisfy any such mortgage.

SEC. 3. After the adoption of this constitution, paragraph 3 of section 4, and section 5 of chapter 34, Statutes of Oklahoma, of 1893, shall be inoperative; provided, that no property shall be exempt for any part of the purchase price while the same, or any part thereof, remains in the possession of the original vendee, or in possession of any purchaser from such vendee, with notice; and provided, further, nothing in this constitution shall prevent or prohibit any person from mortgaging or encumbering his personal exemption.

The legislature may change or amend the terms of this article.

ARTICLE XIII.

Education.

SECTION 1. The Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated.

SEC. 2. The Legislature shall provide for the establishment and support of institutions for the care and education of the deaf, dumb, and blind of the State.

SEC. 3. Separate schools for white and colored children with like accommodations shall be provided by the Legislature and impartially maintained. The term "colored children" as used in this section shall be construed to mean children of African descent. The term "white children" shall include all other children.

SEC. 4. The Legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all the children in the State who are sound in mind and body, between the ages of eight and sixteen years, for at least three months in each year.

SEC. 5. The supervision of instruction in the public schools shall be vested in a Board of Education, whose powers and duties shall be prescribed by law. The Superintendent of Public Instruction shall be President of the Board. Until otherwise provided by law, the Governor, Secretary of State, and Attorney General shall be ex-officio members, and with the Superintendent, compose said Board of Education.

SEC. 6. The Legislature shall provide for a uniform system of text-books for the common schools of the State.

SEC. 7. The Legislature shall provide for the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools of the State.

ARTICLE XIV.

Banks and Banking.

SECTION 1. General laws shall be enacted by the legislature providing for the creation of a banking department, to be under the control of a bank commissioner, who shall be appointed by the governor for a term of four years, by and with the consent of the senate, with sufficient power and authority to regulate and control all state banks, loan, trust, and guaranty companies, under laws which shall provide for the protection of depositors and individual stockholders.

SEC. 2. The legal rate of interest shall not exceed six (6) per centum per annum in the absence of any contract as to the rate of interest, and, by contract, parties may agree upon any rate not to exceed ten (10) per centum per annum, and, until reduced by the legislature, said rates of six (6) and ten (10) per centum shall be, respectively, the legal and the maximum contract rates of interest.

SEC. 3. The taking, receiving, reserving or charging a rate of interest greater than is allowed by the preceding section when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case a greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover from the person, firm or corporation taking or receiving the same, in an action in the nature of an action of debt, twice the amount of the interest so paid; provided, that such action shall be brought within two years after the maturity of such usurious contract; provided, however, that this section may be subject to such changes as the legislature may prescribe.

ARTICLE XV.

Oath of Office.

SECTION 1. Senators and representatives and all judicial, State and county officers shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation:

"I—do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States, and the constitution of the State of Oklahoma, and will discharge the duties of my office with fidelity; that I have not paid or contributed, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not, knowingly, violated any election law of the State, or procured it to be done by others in my behalf; that I will not, knowingly, receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, and I further swear (or affirm) that I will not receive, use or travel upon any free pass or on free transportation during my term of office."

SEC. 2. The foregoing oath shall be administered by some person authorized to administer oaths, and in the case of State officers and judges of the supreme court, shall be filed in the office of the secretary of state, and in case of other judicial and county offices, in the office of the clerk of the county in which the same is taken; any person refusing to take said oath or affirmation, shall forfeit his office, and any person who shall have been convicted of having sworn or affirmed falsely, or having violated said oath or affirmation, shall be guilty of perjury, and shall be disqualified from holding any office of trust or profit within the State. The oath to members of the senate and the house of representatives shall be administered in the hall of the house to which the members shall have been elected, by one of the judges of the supreme court, or in case no such judge is present, then by any person authorized to administer oaths.

ARTICLE XVI.

Public Roads, Highways and Internal Improvements.

SECTION 1. The legislature is directed to establish a department of highways, and shall have the power to create improvement districts and provide for building and maintaining public roads, and may provide for the utilization of convict and punitive labor thereon.

SEC. 2. The State of Oklahoma hereby accepts all reservations and lands for public highways made under any grant, agreement, treaty or act of congress; provided, this section shall not be construed to prejudice the vested rights of any tribe, allottee or other person to any such land.

SEC. 3. The legislature shall have power and shall provide for a system of levees, drains, and ditches and of irrigation in this State when deemed expedient, and provide for a system of taxation on the lands affected or benefitted by such levees, drains and ditches and irrigation, or on crops produced on such land, to discharge such bonded indebtedness or expenses necessarily incurred in the establishment of such improvements; and to provide for the compulsory issuance of bonds by the

owners or lessees of the lands benefitted or affected by such levees, drains, and ditches or irrigation.

ARTICLE XVII.

Counties.

SECTION 1. Each county in this State, now or hereafter organized, shall be a body politic and corporate.

SEC. 2. There are hereby created, subject to change by the legislature, in and for each organized county of this State, the offices of Judge of the County Court, County Attorney, Clerk of the District Court, County Clerk, Sheriff, County Treasurer, Register of Deeds, County Surveyor, Superintendent of Public Instruction, three County Commissioners, and such municipal township officers as are now provided for under the laws of the Territory of Oklahoma, except as in this constitution otherwise provided.

SEC. 3. The several counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or misfortune, may have claims upon the sympathy and aid of the county.

SEC. 4. The Legislature shall provide by general laws for the creation of new counties or altering or changing lines and the equitable division of assets and of liabilities, and the original location of county seats in such new counties: Provided, That every such question shall be submitted to the vote of the qualified electors residing in the territory to be formed into such new county or transferred to another county, and shall be approved by sixty per centum of the votes cast in said election: Provided, That no new county shall be formed of less than four hundred square miles taxable area, nor with a population of less than fifteen thousand people, nor with taxable wealth less than two and one-half million dollars, as shown by the current tax rolls. Nor shall any territory be taken from an existing county for any purpose bringing the newly created line of such existing county nearer than ten miles to the county seat thereof. Nor shall the taxable area, population, or taxable wealth of said existing county be reduced below that required for a new county. Nor shall any territory, in any case, be transferred from one county to an existing county, if, by such transfer of territory, the county from which the territory be taken will then be smaller in area than the county to which the addition is made: Provided, That when territory is to be transferred from an existing county to either a new or an existing county, there must be sixty per centum of the vote cast in such particular territory in favor of the transfer, and, in case the transfer be to an existing county, the acceptance of such territory must first be approved by a majority vote of the electors of said county, at an election to be called and held therefor, as may be provided by law. The limitation as to area, valuation, and population shall not be increased by the Legislature.

SEC. 5. When, at any time hereafter, the aggregate value of all taxable property in any one county be a sum total less than two and one-half million dollars, upon petition of one-fourth or more of the qualified electors of such county, as shown by the last general election, signed, verified, and filed with the county commissioners thereof, not less than sixty days before the date of any general election, such county commissioners shall submit, upon the ballot at such next ensuing general election, to the qualified electors of the county, the questions: "Shall the county be an unorganized county?" "Yes," or "No." If a majority of the votes cast on this question at such election shall be in the affirmative, such county shall thereafter be unorganized and be attached to and be a part of the adjoining county having the lowest valuation of taxable property, and shall so remain as a district in such county until such time as the qualified electors of such unorganized county shall, by similar petition and vote, declare in favor of separate organized county existence: Provided, however, That at all times during such unorganized existence, such county shall have four terms of county court at the county seat therein each year, and the judge of the county court shall appoint a clerk of the county court of said district, from among the qualified electors thereof, who shall keep and maintain his office at such county seat: Provided, further, That while so unorganized, such county shall, in all respects, be part and parcel of the county with which it is united.

SEC. 6. The towns herein named as county seats shall be and remain the county seats of their respective counties until changed by vote of the qualified electors of such county, in the following manner:

(a) Upon a petition or petitions in writing, signed by twenty-five per centum of the qualified electors of the county, such per centum to be determined by the total vote cast in such county for the head of the State ticket in the next preceding general election, said petition or petitions being verified by an affidavit showing that the petitioners are qualified electors of said county, and such petition or petitions having been filed with the governor at any time after four months after the admission of the State into the union, the governor shall, within thirty days, issue his proclamation calling an election, to be held in such county not less than sixty nor more than seventy days from the date of his proclamation.

Such election shall be held under the provisions of the election laws of the State, and upon such

public notice of such election as the governor in his proclamation may direct; and the governor shall cause to be placed upon the tickets to be voted at such election, only the names of such towns as may, more than twenty days prior to such election, file with the governor verified petitions therefor, as above mentioned, signed by not less than three hundred qualified electors of said county.

(The word "town" as herein used, shall be construed to mean town, city or place.)

(b) Upon the holding of any such election, the board of canvassers shall certify and return said vote to the governor, who shall thereupon at once declare the result and cause the will of the electors to be carried into effect; provided, that in all elections for the removal of any of the county seats named in this constitution, the following rules shall govern, until the county seat is once located by a vote of the people, but not later than the first day of April, nineteen hundred and nine: Provided further, In case the necessary and proper petition for the holding of an election for the removal of a county seat shall be filed with the Governor, for over six months prior to the first day of April, provisions, and if such election or elections are delayed or postponed on account of any injunction or legal proceedings, than the time limit provided in the subdivision of this section, shall be extended the length of time that such election or elections are delayed or postponed by such injunction or legal proceedings.

If a majority of all the votes cast in the county at such county seat election shall be in favor of any town such town shall thereafter be the county seat; provided, however, that where the county seat named in this constitution is within six miles of the geographical center of the county (said geographical center to be determined by certificate from the secretary of state, and said distance to be determined by measurement from said geographical center to the nearest corporate limits of such county seat, as they existed on January twenty-first, nineteen hundred and seven) it shall require sixty per centum of the total vote cast at such election by the competing towns to effect the removal of such county seat, unless such competing town be more than one mile nearer the geographical center of said county, in which event a majority vote shall suffice; but, if more than two towns are voted for, and no town receives the requisite proportion of all the votes cast, then all names of towns voted for on said ballot, except the two receiving the greatest number of votes, shall be dropped; and the governor shall, in like time and manner, cause to be called and held a second election, at which only the two towns which received the greatest number of the votes cast at the second election shall be voted for; and the town receiving the requisite proportion of the votes cast at this second election shall be the county seat; provided, that after April the first, nineteen hundred and nine, all county seats shall be subject to removal under the above named provisions; but the town to which removal is sought must receive two-thirds of all votes cast in such county at the election held therefor, and such elections shall not occur at intervals of less than ten years; provided, further, that until after April the first, nineteen hundred and nine, no public money shall be expended for a court house or jail construction unless a vote of the people of such county shall have been taken on the relocation of the county seat.

SEC. 7. Any person or corporation offering money or other thing of value, either directly or indirectly, for the purpose of influencing any voter for or against any competing town in such election shall be deemed guilty of bribery.

Counties and County Seats.

SECTION 1. The State of Oklahoma is hereby divided into counties named and described as follows (all descriptions are referred to the Indian Meridian and base line established by the United States Geological Survey, 1895-1899; unless otherwise specifically mentioned):

Adair County:—Beginning on the township line between townships nineteen (19) and twenty (20) North, at its intersection with the range line between ranges twenty-three (23) and twenty-four (24) East; thence east along said township line to its intersection with the Arkansas State line; thence southward along said Arkansas State line to its intersection with the township line between townships thirteen (13) and fourteen (14) North; thence west along said township line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) East; thence north along said range line to the point of beginning. Westville is hereby designated the County Seat of Adair county.

Alfalfa County:—Beginning on the Kansas and Oklahoma State line at its intersection with the range line between ranges twelve (12) and thirteen (13) West; thence eastward along said State line to its intersection with the range line between ranges eight (8) and nine (9) West; thence south along said range line to its intersection with the east and west center section line of township twenty-three (23) North; thence west along said center section line to its intersection with the range line between ranges twelve (12) and thirteen (13) West; thence north along said range line to the point of beginning. Cherokee is hereby designated the County Seat of Alfalfa county.

Atoka County:—Beginning at the northwest corner of township two (2) North, range twelve

(12) East; thence east along the township line between townships two (2) and three (3) North, to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence south along said range line to its intersection with the township line between townships one (1) and two (2) North; thence east along said township line to its intersection with the range line between ranges fifteen (15) and sixteen (16) East; thence south along said range line to its intersection with the base line; thence west along said base line to its intersection with the range line between ranges fourteen (14) and fifteen (15) East; thence south along said range line to its intersection with the township line between townships four (4) and five (5) South; thence west along said township line to its intersection with the range line between ranges eight (8) and nine (9) East; thence north along said range line between townships one (1) and two (2) South; thence east along said township line to its intersection with the north and south center section line across range eleven (11) East; thence north along said center section line to its intersection with the base line; thence east along said base line to its intersection with the range line between ranges eleven (11) and twelve (12) East; thence north to the point of beginning. Atoka is hereby designated the County Seat of Atoka county.

Beaver County:—Beginning at the point where the one hundredth (100th) meridian intersects the south line of the State of Kansas; thence westward along the south line of the State of Kansas to its intersection with the range line between ranges nineteen (19) and twenty (20) East of Cimarron meridian; thence south along said range line to its intersection with the north boundary line of the State of Texas; thence eastward along the boundary line between Texas and Oklahoma to its intersection with the one hundredth (100th) meridian; thence north along said one hundredth (100th) meridian to the point of beginning. Beaver is hereby designated the County Seat of Beaver county.

Beckham County:—Beginning on the State line between Texas and Oklahoma at its intersection with the east and west center section line across township eleven (11) North; thence east along said section line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) West; thence north along the said range line to its intersection with the east and west center section line across township twelve (12) North; thence east along said section line to its intersection with the range line between ranges twenty (20) and twenty-one (21) West; thence south along said range line to its intersection with the township line between townships seven (7) and eight (8) North; thence west along said township line to its intersection with the center line of the North Fork or Red River; thence up along the center line of said river to its most westerly intersection with the township line between townships seven (7) and eight (8) North; thence west along said township line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) West; thence south along said range line to its intersection with the township line between townships six (6) and seven (7) North; thence west along said township line to its intersection with the State line between Texas and Oklahoma; thence north along said State line to the point of beginning. Sayre is hereby designated the County Seat of Beckham county.

Blaine County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed by the provisions of this constitution. Watonga is hereby designated the County Seat of Blaine county.

Bryan County:—Beginning on the township line between townships four (4) and five (5) South, at its intersection with the boundary line between the Chickasaw and the Choctaw Nations; thence east along said township line to its intersection with the center line of Clear Boggy Creek; thence down along the center line of said Clear Boggy Creek to its intersection with the north and south center section line across range thirteen (13) East; thence south along said center section line to its intersection with the center line of Whitegrass Creek; thence down along the center line of said Whitegrass Creek to its intersection with the State line between Texas and Oklahoma; thence westward along said State line to the center line of the mouth of the Washita River; thence up along the center line of the said Washita River to its intersection with the east and west center section line of township five (5) South; thence along said center section line to its intersection with the boundary line between the Chickasaw and Choctaw Nations; thence north along said boundary line to the point of beginning. Durant is hereby designated the County Seat of Bryan county.

Caddo County:—Beginning on the range line between ranges thirteen (13) and fourteen (14) West, at its intersection with the township line between townships twelve (12) and thirteen (13) North; thence east along said township line to its intersection with the range line between ranges ten (10) and eleven (11) West; thence south along said range line to its intersection with the township line between townships ten (10) and eleven (11) North; thence east along said township line to its intersection with the center line of the Canadian River; thence down along the center line of said Canadian River to its intersection

with the ninety-eighth (98th) meridian; thence south along said ninety-eighth (98th) meridian to its intersection with the east and west center section line across township eight (8) North; thence west along said center section line to its intersection with the range line between ranges eight (8) and nine (9) West; thence south along said range line to its intersection with the township line between townships four (4) and five (5) North; thence west along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14) West; thence north along said range line to the point of beginning. Anadarko is hereby designated the County Seat of Caddo county.

Canadian County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed by the provisions of this constitution. El Reno is hereby designated the County Seat of Canadian county.

Carter County:—Beginning on the base line at its intersection with the range line between ranges three (3) and four (4) West; thence east along said base line to its intersection with the range line between ranges one (1) and two (2) West; thence south along said range line to its intersection with the east and west center section line of township two (2) South; thence east along said center section line to its intersection with the center line of the Washita River; thence southwardly along the center line of said Washita River to its intersection with the township line between townships two (2) and three (3) South; thence east along the said township line to its intersection with the range line between ranges three (3) and four (4) East; thence south along said range line to the northeast corner of section thirty-six (36), township four (4) South, range three (3) East; thence west to the northwest corner of section thirty-five (35) in said township and range; thence south along the section line to its intersection with the township line between townships five (5) and six (6) South; thence west along said township line to its intersection with the range line between ranges three (3) and four (4) West; thence north along said range line to the point of beginning. Ardmore is hereby designated the County Seat of Carter county.

Cherokee County:—Beginning at the northwest corner of township nineteen (19) North, range twenty-one (21) East; thence east along the township line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) East; thence south along said range line to its intersection with the township line between townships thirteen (13) and fourteen (14) North; thence west along said township line to its intersection with the range between ranges twenty (20) and twenty-one (21) East; thence north along said range line to its intersection with the township line between townships fifteen (15) and sixteen (16) North; thence west along said township line to its intersection with the center line of the Grand River; thence up along the center line of said Grand River to its intersection with the township line between townships eighteen (18) and nineteen (19) North; thence east along said township line to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence north along the said range line to the point of beginning. Tahlequah is hereby designated the County Seat of Cherokee county.

Choctaw County:—Beginning on the center line of Clear Boggy Creek at the intersection with the township line between townships four (4) and five (5) South; thence east along said township line to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence south along said range line to its intersection with the State line between Texas and Oklahoma; thence westwardly along said State line to the center line of the fourth of Whitegrass Creek; thence up along the center line of said Whitegrass Creek to its intersection with the north and south center section line across range thirteen (13) East; thence north along said center section line to its intersection with the center line of Clear Boggy Creek; thence up along the center line of said Clear Boggy Creek to the point of beginning. Hugo is hereby designated the County Seat of Choctaw county.

Cimarron County:—Beginning on the State line between Kansas and Oklahoma at its intersection with the range line between ranges nine (9) and ten (10) East of the Cimarron Meridian; thence westward along the State line of Kansas and of Colorado to its intersection with the Cimarron Meridian; thence south along the Cimarron Meridian to its intersection with the north boundary line of the State of Texas; thence eastward along the Texas State line to its intersection with the range line between ranges nine (9) and ten (10) East of the Cimarron Meridian; thence north along said range line to the point of beginning. Kenton is hereby designated the County Seat of Cimarron county.

Cleveland County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Norman is hereby designated the County Seat of Cleveland county.

Coal County:—Beginning at the northwest corner of township three (3) North, range nine (9) East; thence east along the township line between townships three (3) and four (4) North, to its intersection with the range line between ranges eleven (11) and twelve (12) East; thence south along said range line to its intersection with

the base line; thence west along said base line to its intersection with the north and south center section line across range eleven (11) East; thence south along said center section line to its intersection with the township line between townships one (1) and two (2) South; thence west along said township line to its intersection with the range line between ranges seven (7) and eight (8) East; thence north along said range line to its intersection with the township line between townships two (2) and three (3) North; thence east along said township line to its intersection with the range line between ranges eight (8) and nine (9) East; thence along said range line to the point of beginning. Lehigh is hereby designated the County Seat of Coal county.

Comanche County:—Beginning on the township line between townships four (4) and five (5) North, at its intersection with the range line between ranges fifteen (15) and sixteen (16) West; thence east along said township line to its intersection with the range line between ranges eight (8) and nine (9) West; thence south along said range line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the north and south center section line across range nine (9) West; thence south along said center section line to its intersection with the State line between Texas and Oklahoma; thence west along said State line to its intersection with the range line between ranges thirteen (13) and fourteen (14) West; thence north along said range line to its intersection with the north line of township three (3) South; thence west along said township line to the north and south center section line across range fourteen (14) West; thence north along said center section line to the base line; thence west along the base line to the range line between ranges fifteen (15) and sixteen (16) West; thence north along said range line to the point of beginning. Lawton is hereby designated the County Seat of Comanche county.

Craig County:—Beginning on the State line between Kansas and Oklahoma at its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence eastward along said State line to its intersection with the center line of the Neosho River; thence down along the center line of said Neosho River to its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence south along said range line to its intersection with the township line between townships twenty-three (23) and twenty-four (24) North; thence west along said township line to its intersection with the range line between ranges eighteen (18) and nineteen (19) East; thence north along said range line to its intersection with the township line between townships twenty-four (24) and twenty-five (25) North; thence west along said township line to its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence north along said range line to the point of beginning. Vinita is hereby designated the County Seat of Craig county.

Custer County:—Said county to be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Arapaho is hereby designated the County Seat of Custer county.

Creek County:—Beginning at the northwest corner of the Creek nation, extending thence east along the boundary line between the Creek nation and Pawnee county to its intersection with the range line between ranges nine (9) and ten (10) East; thence south along said range line to the township line between townships eighteen (18) and nineteen (19) North; thence east along the said township line to its intersection with the north and south center section line across range twelve (12) East; thence south along said center section line to the southeast corner of section sixteen (16), in township sixteen (16) North, range twelve (12) East; thence west along the section line to its intersection with the range line between ranges ten (10) and eleven (11) East; thence south along said range line to its intersection with the township line between townships thirteen (13) and fourteen (14) North; thence west along said township line to its intersection with the west boundary line of the Creek nation; thence northward along the said boundary line to the point of beginning. Sapulpa is hereby designated the County Seat of Creek county.

Delaware County:—Beginning at the southwest corner of section six (6), township twenty-five (25) North, range twenty-two (22) East; thence east along the section line to the Missouri State line; thence southward along the State line of Missouri and of Arkansas to the township line between townships nineteen (19) and twenty (20) North; thence west along said township line to its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence north along said range line to the point of beginning. Grove is hereby designated the County Seat of Delaware county.

Dewey County:—Said county to be and remain as it now exists under the Territory of Oklahoma, until hereafter changed by the provisions of this constitution. Taloga is hereby designated the County Seat of Dewey county.

Ellis County:—Beginning on the one hundredth (100th) meridian at its intersection with the township line between townships twenty-four (24) and twenty-five (25) North; thence east along said township line to the range line between ranges

twenty-two (22) and twenty-three (23) West; thence south along said range line to its intersection with the township line between townships nineteen (19) and twenty (20) North; thence east along said township line to its intersection with the range line between ranges twenty (20) and twenty-one (21) West; thence south along said range line to its intersection with the center line of the Canadian River (sometimes called South Canadian); thence up along the center line of said river to its intersection with the State line between Texas and Oklahoma; thence north along said State line and the one hundredth (100th) meridian to the point of beginning. Grand is hereby designated the County Seat of Ellis county.

Garfield County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Enid is hereby designated the County Seat of Garfield county.

Garvin County:—Beginning on the range line between ranges four (4) and five (5) West, at its intersection with the township line between townships four (4) and five (5) North; thence east along said township line to its intersection with the range line between ranges three (3) and four (4) East; thence south along said range line to its intersection with east and west center section line across township two (2) North; thence west along said center section line to its intersection with the range line between ranges one (1) and two (2) East; thence south along said range line to its intersection with the section line, two (2) miles north of and parallel to the township line between townships one (1) and two (2) North; thence west along said section line to its intersection with the center line of the Washita River; thence southward along the center line of the said Washita River to its intersection with the base line; thence west along said base line to its intersection with the range line between ranges three (3) and four (4) West; thence north along said range line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the range line between ranges four (4) and five (5) West; thence north along said range line to the point of beginning. Pauls Valley is hereby designated the County Seat of Garvin county.

Grady County:—Beginning on the center line of the Canadian River (sometimes called South Canadian), at its intersection with the ninety-eighth (98th) meridian; thence southeastwardly along the center line of said Canadian River to its intersection with the range line between ranges four (4) and five (5) West; thence south along said range line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the range line between ranges eight (8) and nine (9) West; thence north along said range line to the east and west center section line across township eight (8) North; thence east along said center section line to its intersection with the ninety-eighth (98th) meridian; thence north along said ninety-eighth (98th) meridian to the point of beginning. Chickasha is hereby designated the County Seat of Grady county.

Grant County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Pond Creek is hereby designated the County Seat of Grant county.

Greer County:—Beginning on the State line between Texas and Oklahoma at its intersection with the township line between townships six (6) and seven (7) North; thence east along said township line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) West; thence north along said range line to its intersection with the township line between townships seven (7) and eight (8) North; thence east along said township line to its intersection with the center line of the North Fork of Red River; thence down along the center line of said North Fork of Red River to its intersection with the range line between ranges nineteen (19) and twenty (20) West; thence south along said range line to its intersection with the east and west center section line of township four (4) North; thence west along said center section line to the north and south center section line across range twenty-one (21) West; thence south along said center section line to its intersection with the township line between townships three (3) and four (4) North; thence west along said township line to its intersection with the center line of the Salt Fork of Red River; thence down along the center line of said river to its intersection with the east and west center section line of township three (3) North; thence west along said center section line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) West; thence south along said range line to its intersection with the base line; thence west along said base line to its intersection with the State line between Texas and Oklahoma; thence westward and northward along said State line to the point of beginning. Mangum is hereby designated the County Seat of Greer county.

Harper County:—Beginning on the one hundredth (100th) meridian at its intersection with the Kansas and Oklahoma State line; thence east along said State line to its second intersection with the center line of the Cimarron River, in range twenty-one (21) West; thence southeastwardly

along the center line of said Cimarron River to its intersection with the range line between ranges nineteen (19) and twenty (20) West; thence south along said range line to its intersection with the township line between townships twenty-four (24) and twenty-five (25) North; thence west along said township line to its intersection with the one hundredth (100th) meridian; thence north along said meridian to the point of beginning. Buffalo is hereby designated the County Seat of Harper county.

Haskell County:—Beginning on the center line of the Canadian River at its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence down along the center line of said Canadian River to its intersection with the center line of the Arkansas River; thence down along the center line of said Arkansas River to its intersection with range line between ranges twenty-three (23) and twenty-four (24) East; thence south along the said range line to its intersection with the township line between townships eight (8) and nine (9) North; thence west along said township line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) East; thence south along said range line to the northeast corner of section twenty-five (25), township seven (7) North, range twenty-two (22) East; thence west along the section line to its intersection with the range line between ranges eighteen (18) and nineteen (19) East; thence north along said range line to its intersection with the east and west center section line across township eight (8) North; thence west along said center section line to its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence north along said range line to the point of beginning. Stigler is hereby designated the County Seat of Haskell county.

Hughes County:—Beginning on the township line between townships nine (9) and ten (10) North, at the southwest corner of section thirty-five (35), township ten (10) North, range eight (8) East; thence east along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence south along said range line to its intersection with the center line of the Canadian River (sometimes called South Canadian); thence up along the center line of said Canadian River to its intersection with the range line between ranges eleven (11) and twelve (12) East; thence south along said range line to its intersection with the township line between townships three (3) and four (4) North; thence west along said township line to its intersection with the range line between ranges eight (8) and nine (9) East; thence north along said range line to its intersection with the center line of the Canadian River; thence up along the center line of said Canadian River to its intersection with the east line of the Seminole nation; thence north along the said east line of the Seminole nation to its intersection with the township line between townships seven (7) and eight (8) North; thence east along said township line to the southwest corner of section thirty-five (35), township eight (8) North, range eight (8) East; thence north to the point of beginning. Holdenville is hereby designated the County Seat of Hughes county.

Jackson County:—Beginning on the range line between ranges nineteen (19) and twenty (20) West, at its intersection with the center line of the North Fork of Red River; thence down along the center line of said river to the State line between Texas and Oklahoma; thence westwardly along said State line to its intersection with the base line; thence east along said base line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) West; thence north along said range line to its intersection with the east and west center section line of township three (3) North; thence east along said center section line to its intersection with the center line of Salt Fork of Red River; thence up along the center line of said river to its intersection with the township line between townships three (3) and four (4) North; thence east along said township line to the southeast corner of section thirty-three (33), township four (4) North, range twenty-one (21) West; thence north to the southwest corner of section fifteen (15) of said township and range; thence east along the section line to its intersection with the range line between ranges nineteen (19) and twenty (20) West; thence north along said range line to the point of beginning. Altus is hereby designated the County Seat of Jackson county.

Jefferson County:—Beginning at the southwest corner of section fifteen (15), township three (3) South, range nine (9) West; thence east along the section line to its intersection with the range line between ranges three (3) and four (4) West; thence south along said range line to its intersection with the center line of Mud Creek; thence southeastwardly along the center line of said Mud Creek to the State line between Texas and Oklahoma; thence westwardly along said State line to its intersection with the north and south center section line of range nine (9) West; thence north along said center section line to the point of beginning. Ryan is hereby designated the County Seat of Jefferson county.

Johnston County:—Beginning on the base line at the southeast corner of section thirty-three (33), township one (1) North, range four (4) East; thence east along said base line to its inter-

section with the range line between ranges seven (7) and eight (8) East; thence south along said range line to its intersection with the township line between townships one (1) and two (2) South; thence east along said township line to its intersection with the range line between ranges eight (8) and nine (9) East; thence south along said range line to its intersection with the township line between townships four (4) and five (5) South; thence west along said township line to its intersection with the boundary line between the Choctaw and the Chickasaw nations; thence south along said boundary line to its intersection with the east and west center section line across township five (5) South; thence west along said center section line to its intersection with the center line of the Washita River; thence up along the center line of said Washita River to its intersection with the section line one mile north of and parallel to the township line between townships four (4) and five (5) South; thence west along said section line to its intersection with the range line between ranges three (3) and four (4) East; thence north along said range line to its intersection with the township line between townships two (2) and three (3) South; thence east along said township line to its intersection with the north and south center section line across range four (4) East; thence north along said center section line to the point of beginning. Tishomingo is hereby designated the County Seat of Johnston county.

Kay County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Newkirk is hereby designated the County Seat of Kay county.

Kingfisher County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Kingfisher is hereby designated the County Seat of Kingfisher county.

Kiowa County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Hobart is hereby designated the County Seat of Kiowa county.

Latimer County:—Beginning at the northwest corner of section thirty (30), township seven (7) North, range nineteen (19) East; thence east along the section line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) East; thence south along said range line to its intersection with the township line between townships five (5) and six (6) North; thence west along said township line to its intersection with the section line two miles east of the range line between ranges twenty-one (21) and twenty-two (22) East; thence south along said section line to its intersection with the township line between townships four (4) and five (5) North; thence west along said township line to its intersection with the section line one mile west of the range line between ranges twenty-one (21) and twenty-two (22) East; thence south along said section line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the south and north center section line across range seventeen (17) East; thence north along said center section line to its intersection with the township line between townships six (6) and seven (7) North; thence east along said township line to its intersection with the range line between ranges eighteen (18) and nineteen (19) East; thence north along said range line to the point of beginning. Wilburton is hereby designated the County Seat of Latimer county.

Le Flore County:—Beginning on the center line of the Arkansas River at its intersection with the range line between ranges twenty-three (23) and twenty-four (24) East; thence down along the center line of said Arkansas River to its intersection with the State line between Arkansas and Oklahoma; thence southward along said State line to its intersection with the base line; thence west along said base line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) East; thence north along said range line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the section line one mile west of the range line between ranges twenty-one (21) and twenty-two (22) East; thence north along said section line to its intersection with the township line between townships four (4) and five (5) North; thence east along said township line to the section line two miles east of the range line between ranges twenty-one (21) and twenty-two (22) East; thence north along said section line to its intersection with the township line between townships five (5) and six (6) North; thence east along said township line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) East; thence north along said range line to its intersection with the township line between townships eight (8) and nine (9) North; thence east along said township line to its intersection with the range line between ranges twenty-three (23) and twenty-four (24) East; thence north along said range line to the point of beginning. Poteau is hereby designated the County Seat of Le Flore county.

Lincoln County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions

of this constitution. Chandler is hereby designated the County Seat of Lincoln county.

Logan County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Guthrie is hereby designated the County Seat of Logan county.

Love County:—Beginning on the township line between townships five (5) and six (6) South, at its intersection with the range line between ranges three (3) and four (4) West; thence east along said township line to its intersection with the section line between sections two (2) and three (3), township six (6) South, range three (3) East; thence south along said section line to the northwest corner of section twenty-six (26) in said township; thence east along the section line to the range line between ranges three (3) and four (4) East; thence south along said range line to its intersection with the State line between Texas and Oklahoma; thence westward along said State line to the center line of the mouth of Mud Creek; thence up along the center line of said Mud Creek to its intersection with the range line between ranges three (3) and four (4) West; thence north along said range line to the point of beginning. Marietta is hereby designated the County Seat of Love county.

Major County:—Beginning on the township line between townships twenty-three (23) and twenty-four (24) North, at its intersection with the range line between ranges sixteen (16) and seventeen (17) West; thence east along said township line to its intersection with the center line of the Cimarron River; thence down along the center line of said Cimarron River to its intersection with the range line between ranges twelve (12) and thirteen (13) West; thence north along said range line to its intersection with the east and west center section line of townships twenty-three (23) North; thence east along said center section line to its intersection with the range line between ranges eight (8) and nine (9) West; thence south along said range line to the north line of Kingfisher county; thence westward along the north line of Kingfisher, Blaine and Dewey counties to the intersection with the range line between ranges sixteen (16) and seventeen (17) West; thence north along said range line to the point of beginning. Fairview is hereby designated the County Seat of Major county.

Marshall County:—Beginning at the northwest corner of section thirty-five (35), in township four (4) South, range three (3) East; thence east along the section line to its intersection with the center line of the Washita River; thence down along the center line of said Washita River to its intersection with the state line between Texas and Oklahoma; thence westward along said state line to its intersection with the range line between ranges three (3) and four (4) East; thence north along said range line to the northeast corner of section twenty-five (25), township six (6) South, range three (3) East; thence west along the section line to the northwest corner of section twenty-six (26) in said township and range; thence north to the point of beginning. Madill is hereby designated the County Seat of Marshall county.

Mayes County:—Beginning on the township line between townships twenty-three (23) and twenty-four (24) North, at its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence east along said township line to its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence south along said range line to its intersection with the township line between townships nineteen (19) and twenty (20) North; thence west along said township line to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence south along said range line to its intersection with the township line between township eighteen (18) and nineteen (19) North; thence west along said township line to its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence north along said range line to the point of beginning. Pryor Creek is hereby designated the County Seat of Mayes county.

Murray County:—Beginning on the base line at its intersection with the range line between ranges one (1) and two (2) West; thence east along said base line to its intersection with the center line of the Washita River; thence up along the center line of said Washita River to its intersection with the section line two (2) miles north of and parallel to the township line between townships one (1) and two (2) North; thence east along said section line to its intersection with the range line between ranges one (1) and two (2) East; thence north along said range line to its intersection with the east and west center section line across township two (2) North; thence east along said center section line to its intersection with the range line between ranges three (3) and four (4) East; thence south along said range line to its intersection with the township line between townships one (1) and two (2) North; thence east along said township line to its intersection with the range line between ranges four (4) and five (5) East; thence south along said range line to its intersection with the base line; thence west along said base line to its intersection with the north and south center section line across range four (4) East; thence south along said center section line to its intersection with the township line between townships two (2) and three (3)

South; thence west along said township line to its intersection with the center line of the Washita River; thence up along the center line of said Washita River to its intersection with the east and west center section line across township two (2) South; thence west along said center section line to its intersection with the range line between ranges one (1) and two (2) West; thence north along said range line to the point of beginning. Sulphur is hereby designated the County Seat of Murray county.

Muskogee County:—Beginning on the range line between ranges fourteen (14) and fifteen (15) East, at its intersection with the east and west center section line of township sixteen (16) North, range fifteen (15) East; thence east along said center section line to its intersection with the Arkansas River; thence down along the center line of said Arkansas River to its second intersection with the township line between townships fifteen (15) and sixteen (16) North, in range eighteen (18) East; thence east along said township line to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence south along said range line to its intersection with the center line of the Arkansas River; thence down along the center line of said Arkansas River to its intersection with the center line of the Canadian River; thence up along the center line of said Canadian River to its intersection with the range line between ranges eighteen (18) and nineteen (19) East; thence north along said range line to its intersection with the township line between townships twelve (12) and thirteen (13) North; thence west along said township line to the north and south center section line of township thirteen (13) North, range fifteen (15) East; thence north along said center section line to its intersection with the township line between townships fourteen (14) and fifteen (15) North; thence west along said township line to its intersection with the range line between ranges fourteen (14) and fifteen (15) East; thence north along said range line to the point of beginning. Muskogee is hereby designated the County Seat of Muskogee county.

McClain County:—Beginning on the center line of the Canadian River (sometimes called South Canadian), at its intersection with the range line between ranges four (4) and five (5) West; thence down along the center line of said Canadian River to its intersection with the range line between ranges three (3) and four (4) East; thence south along said range line to its intersection with the township line between townships four (4) and five (5) North; thence west along said township line to its intersection with the range line between ranges four (4) and five (5) West; thence north along said range line to the point of beginning. Purcell is hereby designated the County Seat of McClain county.

McCurtain County:—Beginning on the base line at its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence east along said base line to its intersection with the state line between Arkansas and Oklahoma; thence southward along said state line to its intersection with the state line between Texas and Oklahoma; thence northwestward along said state line to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence north along said range line to its intersection with the township line between townships three (3) and four (4) South; thence east along said township line to its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence north along said range line to the point of beginning. Idabel is hereby designated the County Seat of McCurtain county.

McIntosh County:—Beginning on the township line between townships twelve (12) and thirteen (13) North, at its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence east along said township line to its intersection with the range line between ranges eighteen (18) and nineteen (19) East; thence south along said range line to its intersection with the center line of the Canadian River; thence up along the center line of said Canadian River to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence north along said range line to its intersection with the township line between townships nine (9) and ten (10) North; thence west along said township line to its intersection with the range line between ranges twelve (12) and thirteen (13) East; thence north along said range line to its intersection with the township line between townships ten (10) and eleven (11) North; thence east along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence north along said range line to the point of beginning. Eufaula is hereby designated the County Seat of McIntosh county.

Noble County:—Said county shall be as it now exists under the Territory of Oklahoma, with township twenty (20) North, range one (1) East, and township twenty (20) North, range one (1) West, added thereto. Perry is hereby designated the County Seat of Noble county.

Nowata County:—Beginning on the state line between Kansas and Oklahoma at its intersection with the north and south center section line of range fourteen (14) East; thence eastward along said state line to its intersection with the range line between ranges seventeen (17) and eighteen

(18) East; thence south along said range line to its intersection with the township line between township twenty-four (24) and twenty-five (25) North; thence west along said township line to its intersection with the north and south center section line across range fourteen (14) East; thence north along said center section line to the point of beginning. Nowata is hereby designated the County Seat of Nowata county.

Okfuskee County:—Beginning on the west boundary line of the Creek nation at its intersection with the township line between townships thirteen (13) and fourteen (14) North; thence east along said township line to its intersection with the range line between ranges ten (10) and eleven (11) East; thence south along said range line to its intersection with the township line between townships twelve (12) and thirteen (13) North; thence east along said township line to its intersection with the range line between ranges eleven (11) and twelve (12) East; thence south along said range line to its intersection with the township line between townships ten (10) and eleven (11) North; thence east along said township line to its intersection with the range line between ranges twelve (12) and thirteen (13) East; thence south along said range line to its intersection with the township line between townships nine (9) and ten (10) North; thence west along said township line to its intersection with section line two (2) miles west of and parallel to the range line between ranges eight (8) and nine (9) East; thence north along said section line to its intersection with the center line of the North Fork of the Canadian River; thence up along the center line of said river to the southwest corner of the Creek nation in township eleven (11) North; thence along the west boundary line of said Creek nation to the point of beginning. Okemah is hereby designated the County Seat of Okfuskee county.

Oklahoma County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this constitution. Oklahoma City is hereby designated the County Seat of Oklahoma county.

Okmulgee County:—Beginning on the range line between ranges ten (10) and eleven (11) East, at its intersection with the east and west center section line across township sixteen (16) North; thence east along said center section line to its intersection with the range line between ranges fourteen (14) and fifteen (15) East; thence south along said range line to its intersection with the township line between townships fourteen (14) and fifteen (15) North; thence east along said township line to its intersection with the north and south center section line across range fifteen (15) East; thence south along said center section line to its intersection with the township line between townships twelve (12) and thirteen (13) North; thence west along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence south with the township line between townships ten (10) and eleven (11) North; thence west along said township line to its intersection with the range line between ranges eleven (11) and twelve (12) East; thence north along said range line to its intersection with the township line between townships twelve (12) and thirteen (13) North; thence west along said township line to its intersection with the range line between ranges ten (10) and eleven (11) East; thence north along said range line to the point of beginning. Okmulgee is hereby designated the County Seat of Okmulgee county.

Osage County:—The Osage Indian Reservation with its present boundaries is hereby constituted one county to be known as Osage county; the present boundaries to remain unchanged until all the lands of the Osage Tribe of Indians shall have been allotted, and until the same shall be changed as provided by the Legislature for the changing of county lines. Pawhuska is hereby designated the County Seat of Osage county.

Ottawa County:—Beginning on the state line between Kansas and Oklahoma at its intersection with the center line of the Neosho River; thence east along said state line to its intersection with the Missouri state line; thence southward along the Missouri state line to its intersection with the section line one mile south of and parallel to the south line of township twenty-six (26) North; thence west along said section line to its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence north along said range line to its intersection with the center line of the Neosho River; thence up along the center line of said Neosho River to the point of beginning. Miami is hereby designated the County Seat of Ottawa county.

Pawnee County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this Constitution. Pawnee is hereby designated the County Seat of Pawnee county.

Payne County:—Said county shall be as it now exists under the Territory of Oklahoma, with township twenty (20) North, range one (1) East, and township twenty (20) North, range one (1) West, taken therefrom. Stillwater is hereby designated the County Seat of Payne county.

Pittsburg County:—Beginning on the center line of the Canadian River (sometimes called South Canadian), at its intersection with the range line between ranges eleven (11) and twelve (12)

East; thence down along the center line of said Canadian River to its intersection with the range line between ranges seventeen (17) and eighteen (18) East; thence south along said range line to its intersection with the east and west center section line of township eight (8) North; thence east along said center section line to its intersection with the range line between ranges eighteen (18) and nineteen (19) East; thence south along said range line to its intersection with the township line between townships six (6) and seven (7) North; thence west along said township line to its intersection with the north and south center section line across range seventeen (17) East; thence south along said center section line to its intersection with the township line between townships one (1) and two (2) North; thence west along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence north along said range line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the range line between ranges eleven (11) and twelve (12) East; thence north along said range line to the point of beginning. McAlester is hereby designated the County Seat of Pittsburg county.

Pontotoc County:—Beginning on the center line of the Canadian River (sometimes called South Canadian), at its intersection with the range line between ranges three (3) and four (4) East; thence down along the center line of said Canadian River to its intersection with the range line between ranges eight (8) and nine (9) East; thence south along said range line to its intersection with the township line between townships two (2) and three (3) North; thence west along said township line to its intersection with the range line between ranges seven (7) and eight (8) East; thence south down along said range line to its intersection with the base line; thence west along said base line to its intersection with the range line between ranges four (4) and five (5) East; thence north along said range line to its intersection with the township line between townships one (1) and two (2) North; thence west along said township line to its intersection with the range line between ranges three (3) and four (4) East; thence north along said range line to the point of beginning. Ada is hereby designated the County Seat of Pontotoc county.

Pottawatomie County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this Constitution. Tecumseh is hereby designated the County Seat of Pottawatomie county.

Pushmataha County:—Beginning on the township line between townships two (2) and three (3) North, at its intersection with the north and south center section line across range seventeen (17) East; thence east along said township line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) East; thence south along said range line to its intersection with the base line; thence west along said base line to its intersection with the range line between ranges twenty-one (21) and twenty-two (22) East; thence south along said range line to its intersection with the township line between townships three (3) and four (4) South; thence west along said township line to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence south along said range line to its intersection with the township line between townships four (4) and five (5) South; thence west along said township line to its intersection with the range line between ranges fourteen (14) and fifteen (15) East; thence north along said range line to its intersection with the base line; thence east along said base line to its intersection with the range line between ranges fifteen (15) and sixteen (16) East; thence north along said range line to its intersection with the township line between townships one (1) and two (2) North; thence east along said township line to its intersection with the north and south center section line across range seventeen (17) East; thence north along said center section line to the point of beginning. Antlers is hereby designated the County Seat of Pushmataha county.

Roger Mills County:—Beginning on the state line between Texas and Oklahoma at its intersection with the center line of the Canadian River (sometimes called South Canadian); thence down along the center line of said river to its intersection with the range line between ranges twenty (20) and twenty-one (21) West; thence south along said range line to its intersection with the east and west center section line across township twelve (12) North; thence west along said section line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) West; thence south along said range line to its intersection with the east and west center section line across township eleven (11) North; thence west along said section line to its intersection with the state line between Texas and Oklahoma; thence northward along said state line to the point of beginning. Cheyenne is hereby designated the County Seat of Roger Mills county.

Rogers County:—Beginning on the township line between townships twenty-four (24) and twenty-five (25) North, at its intersection with the north and south center section line across range fourteen (14) East; thence east along said township line to the range line between ranges

eighteen (18) and nineteen (19) East; thence south along said range line to the township line between townships twenty-three (23) and twenty-four (24) North; thence west along said township line to the range line between ranges seventeen (17) and eighteen (18) East; thence south along said range line to its intersection with the township line between townships eighteen (18) and nineteen (19) North; thence west along said township line to its intersection with the center line of the Verdigris River; thence up along the center line of said Verdigris River to its intersection with the township line between townships nineteen (19) and twenty (20) North; thence west along said township line to its intersection with the north and south center section line across range fourteen (14) East; thence north along said center section line to the township line between townships twenty-one (21) and twenty-two (22) North; thence west along said township line to the range line between ranges thirteen (13) and fourteen (14) East; thence north along said range line to the township line between townships twenty-two (22) and twenty-three (23) North; thence east along said township line to the north and south center section line across range fourteen (14) East; thence north along said center section line to the point of beginning. Claremore is hereby designated the County Seat of Rogers county.

Seminole County:—Beginning at a point where the east boundary line of the Seminole nation intersects the center line of the South Canadian River; thence north along the east boundary line of said Seminole nation to its intersection with the township line between townships seven (7) and eight (8) North; thence east along said township line to the southwest corner of section thirty-five (35), township eight (8) North, range eight (8) East; thence north along the section line between sections thirty-four (34) and thirty-five (35), in said township and range, projected to its intersection with the center line of the North Canadian River; thence westward along the center line of said river to its intersection with the east boundary line of Pottawatomie county; thence southward along said east boundary line to its intersection with the center line of the South Canadian River; thence down along the center line of said river to the point of beginning. Wewoka is hereby designated the County Seat of Seminole county.

Sequoyah County:—Beginning on the township line between townships thirteen (13) and fourteen (14) North, at its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence east along said township line to its intersection with the state line between Arkansas and Oklahoma; thence southward along said state line to its intersection with the center line of the Arkansas River; thence up along the center line of said Arkansas River to its intersection with the range line between ranges twenty (20) and twenty-one (21) East; thence north along said range line to the point of beginning. Sallisaw is hereby designated the County Seat of Sequoyah county.

Stephens County:—Beginning on the township line between townships two (2) and three (3) North, at its intersection with the north and south center section line across range nine (9) West; thence east along said township line to its intersection with the range line between ranges three (3) and four (4) West; thence south along said range line to its intersection with the east and west center section line across township three (3) South; thence west along said center section line to its intersection with the north and south center section line across range nine (9) West; thence north along said center section line to the point of beginning. Duncan is hereby designated the County Seat of Stephens county.

Texas County:—All that part of the former county of Beaver, Territory of Oklahoma, extending from the range line between ranges nineteen (19) and twenty (20) East of the Cimarron Meridian, to the range line between ranges nine (9) and ten (10) East of the Cimarron Meridian. Guymon is hereby designated the County Seat of Texas county.

Tillman County:—Beginning on the base line at its intersection with the center line of the North Fork of Red River; thence east along said base line to its intersection with the north and south center section line across range fourteen (14) West; thence south along said center section line to its intersection with the township line between townships two (2) and three (3) South; thence east along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14) West; thence south along said range line to its intersection with the state line between Texas and Oklahoma; thence westwardly and northwardly along said state line to its intersection with the center line of the mouth of the North Fork of Red River; thence up along the center line of said North Fork of Red River to the point of beginning. Frederick is hereby designated the County Seat of Tillman county.

Tulsa County:—Beginning at the northeast corner of township nineteen (19) North, range fourteen (14) East; thence south along the range line between ranges fourteen (14) and fifteen (15) East, to its intersection with the township line between townships seventeen (17) and eighteen (18) North; thence west along said township line to its intersection with the range line between ranges thirteen (13) and fourteen (14)

East; thence south along said range line to its intersection with the east and west center section line across township sixteen (16) North; thence west along said center section line to its intersection with the north and south center section line across range twelve (12) East; thence north along said center section line to its intersection with the township line between townships eighteen (18) and nineteen (19) North; thence west along said township line to its intersection with the range line between ranges nine (9) and ten (10) East; thence north along said range line to its intersection with the north boundary line of the Creek nation; thence eastward along said boundary line to the southeast corner of the Osage nation; thence north along the east boundary line of the Osage nation to its intersection with the township line between townships twenty-two (22) and twenty-three (23) North; thence east along said township line to the range line between ranges thirteen (13) and fourteen (14) East; thence south along said range line to its intersection with the township line between townships twenty-one (21) and twenty-two (22) North; thence east along said township line to its intersection with the north and south center section line across range fourteen (14) East; thence south along said center section line to its intersection with the township line between townships nineteen (19) and twenty (20) North; thence east along said township line to the point of beginning. Tulsa is hereby designated the County Seat of Tulsa county.

Wagoner County:—Beginning on the township line between townships nineteen (19) and twenty (20) North, at its intersection with the range line between ranges fourteen (14) and fifteen (15) East; thence east along said township line to its intersection with the center line of Verdigris River; thence down along the center line of said river to its intersection with the township line between townships eighteen (18) and nineteen (19) North; thence east along said township line to its intersection with the center line of the Grand River; thence down along the center line of said Grand River to its intersection with the township line between townships fifteen (15) and sixteen (16) North; thence west along said township line to its intersection with the center line of the Arkansas River in range eighteen (18) East, to correspond with the description of Muskogee county; thence up along the center line of said Arkansas River to its intersection with the east and west center section line across township sixteen (16) North, range fifteen (15) East; thence west along said center section line to its intersection with the range line between ranges thirteen (13) and fourteen (14) East; thence north along said range line to its intersection with the township line between townships seventeen (17) and eighteen (18) North; thence east along said township line to its intersection with the range line between ranges fourteen (14) and fifteen (15) East; thence north along said range line to the point of beginning. Wagoner is hereby designated the County Seat of Wagoner county.

Washington County:—Beginning on the state line between Kansas and Oklahoma at its intersection with the east boundary line of the Osage nation; thence eastward along said state line to its intersection with the north and south center section line across range fourteen (14) East; thence south along said center section line to its intersection with the township line between townships twenty-two (22) and twenty-three (23) North; thence west along said township line to its intersection with the east boundary line of the Osage nation; thence northward along said boundary line to the point of beginning. Bartlesville is hereby designated the County Seat of Washington county.

Washita County:—Said county shall be and remain as it now exists under the Territory of Oklahoma, until hereafter changed under the provisions of this Constitution. Cordell is hereby designated the County Seat of Washita county.

Woods County:—Beginning on the state line between Kansas and Oklahoma at its intersection with the center line of the Cimarron River in range twenty-one (21) West; thence eastward along said state line to its intersection with the range line between ranges twelve (12) and thirteen (13) West; thence south along said range line to its intersection with the center line of the Cimarron River; thence up along the center line of said Cimarron River to its intersection with the township line between townships twenty-three (23) and twenty-four (24) North; thence west along said township line to its intersection with the range line between ranges sixteen (16) and seventeen (17) West; thence north along said range line to its intersection with the center line of the Cimarron River; thence up along the center line of said Cimarron River to the point of beginning. Alva is hereby designated the County Seat of Woods county.

Woodward County:—Beginning on the center line of the Cimarron River at its intersection with the range line between ranges nineteen (19) and twenty (20) West; thence southeastwardly along the center line of said Cimarron River to its intersection with the range line between ranges sixteen (16) and seventeen (17) West; thence south along said range line to its intersection with the south boundary line of said county, as it now exists under the Territory of Oklahoma; thence westward along said line to its intersection with the range line between ranges twenty-two (22) and twenty-three (23) West; thence north along said

range line to its intersection with the township line between townships twenty-four (24) and twenty-five (25) North; thence east along said township line to its intersection with the range line between ranges nineteen (19) and twenty (20) West; thence north along said range line to the point of beginning. Woodward is hereby designated the County Seat of Woodward county.

ARTICLE XVIII.

Municipal Corporations.

SECTION 1. Municipal corporations shall not be created by special laws, but the legislature by general laws, shall provide for the incorporation and organization of cities and towns and the classification of same in proportion to population, subject to the provisions of this article.

SEC. 2. Every municipal corporation now existing within this state shall continue with all of its present rights and powers until otherwise provided by law, and shall always have the additional rights and powers conferred by this constitution.

SEC. 3. (a) Any city containing a population of more than two thousand inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of this state, by causing a board of freeholders, composed of two from each ward, who shall be qualified electors of said city, to be elected by the qualified electors of said city, at any general or special election, whose duty it shall be, within nineteen days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such board, or a majority of them, and returned, one copy of said charter to the chief executive officer of such city, and the other to the register of deeds of the county in which said city shall be situated. Such proposed charter shall then be published in one or more newspapers published and of general circulation within said city, for at least twenty-one days, if in a daily paper, or in three consecutive issues, if in a weekly paper, and the first publication shall be made within twenty days after the completion of the charter; and within thirty days, and not earlier than twenty days after such publication it shall be submitted to the qualified electors of said city at a general or special election, and if a majority of such qualified electors voting thereon shall ratify the same, it shall thereafter be submitted to the governor for his approval, and the governor shall approve the same, if it shall not be in conflict with the constitution and laws of this state. Upon such approval, it shall become the organic law of such city and supersede any existing charter and all amendments thereof and all ordinances inconsistent with it. A copy of such charter, certified by the chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them shall, after the approval of such charter by the governor, be made in duplicate and deposited, one in the office of the secretary of state, and the other, after being recorded in the office of said register of deeds, shall be deposited in the archives of the city and thereafter all courts shall take judicial notice of said charter. The charter so ratified may be amended by proposals therefor, submitted by the legislative authority of the city to the qualified electors thereof (or by petition as hereinafter provided) at a general or special election, and ratified by a majority of the qualified electors voting thereon, and approved by the governor as herein provided for the approval of the charter.

SEC. 3. (b) An election of such board of freeholders may be called at any time by the legislative authority of any such city, and such an election shall be called by the chief executive officer of any such city within ten days after there shall have been filed with him a petition demanding the same, signed by a number of qualified electors residing within such city, equal to twenty-five per centum of the total number of votes cast at the next preceding general municipal election; and such election shall be held not later than thirty days after the call therefor. At such election a vote shall be taken upon the question of whether or not further proceedings toward adopting a charter shall be had, in pursuance to the call, and unless a majority of the qualified electors voting thereon shall vote to proceed further, no further proceeding shall be had, and all proceedings up to that time shall be of no effect.

SEC. 4. (a) The powers of the initiative and referendum, reserved by this constitution to the people of the state and the respective counties and districts therein, are hereby reserved to the people of every municipal corporation now existing or which shall hereafter be created within this state, with reference to all legislative authority which it may exercise, and amendments to charters for its own government in accordance with the provisions of this constitution.

SEC. 4. (b) Every petition for either the initiative or referendum in the government of a municipal corporation shall be signed by a number of qualified electors residing within the territorial limits of such corporation equal to 25 per centum of the total number of votes cast at the next preceding election, and every such petition shall be filed with the chief executive officer of such municipal corporation.

SEC. 4. (c) When such petition demands the enactment of an ordinance or other legal act other than the grant, extension or renewal of a franchise, the chief executive officer shall present the

same to the legislative body of such corporation at its next meeting, and unless the said petition shall be granted more than 30 days before the next election at which any city officers are to be elected, the chief executive officer shall submit the said ordinance or act so petitioned for to the qualified electors at said election; and if a majority of said electors voting thereon shall vote for the same, it shall thereupon become in full force and effect.

SEC. 4. (d) When such petition demands a referendum vote upon any ordinance or any other legal act other than the grant, extension or renewal of a franchise, the chief executive officer shall submit said ordinance or act to the qualified electors of said corporation at the next succeeding general municipal election, and if at said election a majority of the electors voting thereon shall not vote for the same, it shall thereupon stand repealed.

SEC. 4. (e) When such petition demands an amendment to a charter, the chief executive officer shall submit such amendment to the qualified electors of said municipal corporation at the next election of any officers of said corporation, and if at said election a majority of said electors voting thereon shall vote for such amendment, the same shall thereupon become an amendment to and a part of said charter, when approved by the governor and filed in the same manner and form as an original charter is required by the provisions of this article to be approved and filed.

SEC. 5. (a) No municipal corporation shall ever grant, extend or renew a franchise, without the approval of a majority of the qualified electors residing within its corporate limits, who shall vote thereon at a general or special election; and the legislative body of any such corporation may submit any such matter for approval or disapproval to such electors at any general municipal election, or call a special election for such purpose at any time upon 30 days' notice; and no franchise shall be granted, extended or renewed for a longer term than twenty-five years.

SEC. 5. (b) Whenever a petition signed by a number of qualified electors of any municipal corporation equal to twenty-five percentum of the total number of votes cast at the next preceding general municipal election, demanding that a franchise be granted, extended, or renewed, shall be filed with the chief executive officer of said corporation, the chief executive officer shall, within ten days thereafter, call a special election, at which he shall submit the question of whether or not such franchise shall be granted, extended, or renewed, and if, at said election, a majority of the said electors voting thereon shall vote for the grant, extension, or renewal of such franchise, the same shall be granted by the proper authorities at the next succeeding regular meeting of the legislative body of the city.

SEC. 6. Every municipal corporation within this state shall have the right to engage in any business or enterprise which may be engaged in by a person, firm or corporation by virtue of a franchise from said corporation.

SEC. 7. No grant, extension or renewal of any franchise or other use of the streets, alleys, or other public grounds or ways of any municipality shall divest the state, or any of its subordinate subdivisions, of their control and regulation of such use and enjoyment.

Nor shall the power to regulate the charges for public services be surrendered; and no exclusive franchise shall ever be granted.

ARTICLE XIX.

Insurance.

SECTION 1. No foreign insurance company shall be granted a license or permitted to do business in this State until it shall have complied with the laws of the State, including the deposit of such collateral or indemnity for the protection of its patrons within this State as may be prescribed by law, and shall agree to pay all such taxes and fees as may at any time be imposed by law or act of the Legislature, on foreign insurance companies, and a refusal to pay such taxes or fees shall work a forfeiture of such license.

SEC. 2. Until otherwise provided by law, all foreign insurance companies, including surety and bond companies, doing business in the State, except fraternal insurance companies, shall pay to the Insurance Commissioner for the use of the State, an entrance fee as follows:

Each Foreign Life Insurance Company, per annum, two hundred dollars; each Foreign Fire Insurance Company, per annum, one hundred dollars; each Foreign Accident and Health Insurance Company, jointly, per annum, one hundred dollars; each Surety and Bond Company, per annum, one hundred and fifty dollars; each Plate Glass Insurance Company (not accident), per annum, twenty-five dollars; each Foreign Live Stock Insurance Company, per annum, twenty-five dollars.

Until otherwise provided by law, domestic companies excepted, each insurance company, including surety and bond companies, doing business in this State, shall pay an annual tax of two per cent on all premiums collected in the States, after all cancellations are deducted, and a tax of three dollars on each local agent.

SEC. 3. The revenue and tax provisions of this Constitution shall not include, but the State shall provide for, the following classes of Insurance organizations not conducted for profit, and insuring only their own members:

First, Farm Companies insuring farm property and products thereon; second, Trades Insurance Companies insuring the property and interest of one line of business; third, Fraternal Life, Health, and Accident Insurance in Fraternal and Civic Orders, and in all of which the interests of the members of each respectively shall be uniform and mutual.

SEC. 4. All fees collected by the Insurance Commissioner shall be paid to the State Treasurer monthly.

ARTICLE XX.

Manufacture and Commerce.

SECTION 1. Nothing herein shall prevent the manufacture or sale of denaturized alcohol under such regulations as may be prescribed by law.

SEC. 2. Until changed by the Legislature, the flash test provided for under the laws of Oklahoma Territory for all kerosene oil for illuminating purposes shall be one hundred and fifteen degrees Fahrenheit; and the specific gravity test for all such oil, shall be forty degrees Baume.

ARTICLE XXI.

Public Institutions.

SECTION 1. Educational, reformatory, and penal institutions and those for the benefit of the insane, blind, deaf, and mute, and such other institutions as the public good may require, shall be established and supported by the State in such manner as may be prescribed by law.

ARTICLE XXII.

Alien and Corporate Ownership of Lands.

SECTION 1. No alien or person who is not a citizen of the United States, shall acquire title to or own land in this State, and the Legislature shall enact laws whereby all persons not citizens of the United States and their heirs, who may hereafter acquire real estate in this State by devise, descent, or otherwise, shall dispose of the same within five years upon condition of escheat or forfeiture to the State: Provided, This shall not apply to Indians born within the United States, nor to aliens or persons not citizens of the United States who may become bona fide residents of this State: And provided further, That this section shall not apply to lands now owned by aliens in this State.

SEC. 2. No corporation shall be created or licensed in this State for the purpose of buying, acquiring, trading, or dealing in real estate other than real estate located in incorporated cities and towns and as additions thereto; nor shall any corporation doing business in this State buy, acquire, trade, or deal in real estate for any purpose except such as may be located in such towns and cities and as additions to such towns and cities, and further except such as shall be necessary and proper for carrying on the business for which it was chartered or licensed; nor shall any corporation be created or licensed to do business in this State for the purpose of acting as agent in buying and selling land: Provided, however, That corporations shall not be precluded from taking mortgages on real estate for debt and acquiring title thereto in the collection of debts, conditioned that such corporation or corporations shall not hold such real estate for a longer period than seven years after acquiring such title: And provided further, That this section shall not apply to trust companies taking only the naked title to real estate or other property in this State as a trustee, solely for the execution of a trust or security for indebtedness pursuant to such trust: And provided further, That no public service corporation shall hold any land, or the title thereof, in any way whatever in this state, except as the same shall be necessary for the transaction and operation of its business as such Public Service Corporation.

ARTICLE XXIII.

Miscellaneous.

SECTION 1. Eight hours shall constitute a day's work in all cases of employment by and on behalf of the State or any county or municipality.

SEC. 2. The contracting of convict labor is hereby prohibited.

SEC. 3. The employment of children, under the age of fifteen years, in any occupation, injurious to health or morals or especially hazardous to life or limb is hereby prohibited.

SEC. 4. Boys under the age of sixteen years, and women and girls, shall not be employed, underground, in the operation of mines; and, except in cases of emergency, eight hours shall constitute a day's work underground in all mines in the State.

SEC. 5. The Legislature shall pass laws to protect the health and safety of employees in factories, in mines, and on railroads.

SEC. 6. The defense of contributory negligence or of assumption of risk shall, in all cases whatsoever, be a question of fact, and shall, at all times, be left to the jury.

SEC. 7. The right of action to recover damages for injuries resulting in death shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation.

SEC. 8. Any provision of a contract, express or implied, made by any person, by which any of the benefits of this Constitution, or of any law made in accordance therewith, is sought to be waived, shall be null and void.

SEC. 9. Any provision of any contract or agreement, express or implied, stipulating for notice or demand other than such as may be provided

by law, as a condition precedent to establish any claim, demand, or liability, shall be null and void.

SEC. 10. Except wherein otherwise provided in this constitution, in no case shall the salary or emoluments of any public official be changed after his election or appointment, or during his term of office unless by operation of law enacted prior to such election or appointment; nor shall the term of any public official be extended beyond the period for which he was elected or appointed: Provided, That all officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

SEC. 11. Wherever in this Constitution and laws of this State, the word or words, "colored" or "colored race," "negro" or "negro race," are used, the same shall be construed to mean or apply to all persons of African descent. The term "white race" shall include all other persons.

ARTICLE XXIV.

Constitutional Amendments.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the Legislature, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the Secretary of State to the people for their approval or rejection, at the next regular general election, except when the Legislature, by a two-thirds vote of each house, shall order a special election for that purpose. If a majority of all the electors voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution. If two or more amendments are proposed they shall be submitted in such manner that electors may vote for or against them separately.

SEC. 2. No convention shall be called by the Legislature to propose alterations, revisions, or amendments to this Constitution, or to propose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular or special election, and any amendments, alterations, revisions, or new Constitution, proposed by such convention, shall be submitted to the electors of the State at a general or special election and be approved by a majority of the electors voting thereon, before the same shall become effective: Provided, That the question of such proposed convention shall be submitted to the people at least once in every twenty years.

SEC. 3. This article shall not impair the right of the people to amend this Constitution by a vote upon an initiative petition therefor.

Schedule.

In order that no inconvenience may arise by reason of a change from the forms of governmen. now existing in the Indian Territory and in the Territory of Oklahoma, it is hereby declared as follows:

SECTION 1. No existing rights, actions, suits, proceedings, contracts, or claims shall be affected by the change in the forms of government, but all shall continue as if no change in the forms of government had taken place. And all processes which may have been issued previous to the admission of the State into the Union under the authority of the Territory of Oklahoma or under the authority of the laws in force in the Indian Territory shall be as valid as if issued in the name of the State.

SEC. 2. All laws in force in the Territory of Oklahoma at the time of the admission of the State into the Union, which are not repugnant to this Constitution and which are not locally inapplicable, shall be extended to and remain in force in the State of Oklahoma until they expire by their own limitation or are altered or repealed by law.

SEC. 3. All debts, fines, penalties, and forfeitures which have accrued or may hereafter accrue to the Territory of Oklahoma shall inure to the State of Oklahoma and may be sued for and recovered by the State.

SEC. 4. This Constitution shall take effect and be in full force immediately upon the admission of the State into the Union.

SEC. 5. Until otherwise provided by law, notaries public appointed under the laws of the Territory of Oklahoma, or under the authority of the laws heretofore in force in the Indian Territory, may continue to exercise and perform the duties of the office of notary public until the expiration of their commissions: Provided, That any notary public appointed in the Indian Territory for any district, or in the Territory of Oklahoma for any county, shall, after this Constitution takes effect, exercise the powers, privileges, and rights of a notary public only of the county formed in whole or in part out of the district or county for which such person is a notary public, and in which such person resides at the time the State is admitted into the Union, but before any such notary public, except notaries public for those counties in the Territory of Oklahoma, the boundaries of which have not been changed by the Constitution, shall exercise the powers, privileges, and rights of a notary public of such county, he shall have filed in the office of the county clerk of the county in which he resides his commission as notary public and an affidavit stating that he is a resident of such county, whereupon he shall become a notary public for such county.

SEC. 6. The appointments of female persons as notaries public, heretofore made by the Governor of Oklahoma, and by the United States courts for the Indian Territory, and by the judges of said courts, are hereby confirmed and made valid, and all official acts of such notaries public heretofore performed are hereby validated, in so far as the acts of such notaries public may be affected by any intelligibility of such persons to appointments as notaries public. Female persons possessing the other qualifications prescribed by law shall be eligible to the office of notary public and of county superintendent of public instruction.

SEC. 7. All property, real and personal, credits, claims, and choses in action, belonging to the Territory of Oklahoma at the time the State is admitted into the Union, shall be vested in and become the property of the State of Oklahoma.

SEC. 8. All judgments and records of deeds, mortgages, liens, and other instruments, filed or recorded, affecting the title to real and personal property in the Indian Territory and Osage Indian Reservation, are hereby made as effectual to impart notice and for all other purposes under the laws of the Territory of Oklahoma extended in force in the State, as they were under the laws heretofore in force in the Indian Territory and Osage Indian Reservation.

SEC. 9. All judgments and records of deeds, mortgages, liens, and other instruments, filed or recorded, affecting title to real and personal property in new counties that have been created out of the Territory of any county or counties of the Territory of Oklahoma, or out of the Territory of any county or counties of the Territory of Oklahoma, and of any recording district or districts of the Indian Territory, are hereby made as effectual to impart notice and for all other purposes under the laws of the Territory of Oklahoma, extended in force in the State, as the same would have been if no changes had been made by the provisions of this Constitution in the boundaries of the counties as they existed in the Territory of Oklahoma, or of the boundaries of the recording districts as they existed in the Indian Territory.

SEC. 10. Until otherwise provided by law, incorporated cities and towns, heretofore incorporated under the laws in force in the Territory of Oklahoma or in the Indian Territory, shall continue their corporate existence under the laws extended in force in the State, and all officers of such municipal corporation at the time of the admission of the State into the Union shall perform the duties of their respective offices under the laws extended in force in the State, until their successors are elected and qualified in the manner that is or may be provided by law: Provided, That all valid ordinances now in force in such incorporated cities and towns shall continue in force until altered, amended, or repealed.

SEC. 11. All taxes assessed or due to incorporated cities and towns in the Indian Territory, and all taxes levied by such incorporated cities and towns for the year nineteen hundred and seven shall, until otherwise provided by law, be levied and collected in the same manner as now provided by law in force in the Indian Territory, and under the laws and ordinances now in force in such municipal corporations.

SEC. 12. In all incorporated cities and towns in the Indian Territory, all local improvements or public buildings in process of being made or constructed under the laws in force in the Indian Territory, or for which proceedings have been commenced under such laws at the time of the admission of the State into the Union, shall be completed under said laws, and said laws are hereby extended in force as to such improvements of public buildings until such local improvements of public buildings are completed and paid for, as by such laws provided.

SEC. 13. The Act of Congress entitled "An Act for the Protection of the Lives of Miners in the Territories," approved March 3, 1891, and the Act of Congress entitled "An Act to Amend an Act entitled 'An Act for the Protection of the Lives of Miners in the Territories,'" approved July 1, 1902, are hereby extended to and over the State of Oklahoma until otherwise provided by law: Provided, That the words, Governor of the State, are hereby substituted for the words, "Governor of such organized territory," and for the words, "Secretary of Interior," wherever the same appear in said Acts, and the words Chief Mine Inspector, for the words, "Mine Inspector," wherever the same appear in said Acts. The Chief Mine Inspector shall also perform the duties required by laws of the Territory of Oklahoma of the Territorial Oil Inspector until otherwise provided by law.

SEC. 14. Until otherwise provided by law, all dental surgeons licensed to practice in the Territory of Oklahoma and all dental surgeons who were residents of the Indian Territory on the sixteenth day of June, nineteen hundred and six, and who are graduates of some reputable school or college of dental surgery, shall be eligible and be licensed to practice in the State without examination.

SEC. 15. Until otherwise provided by law, the officers of the State shall receive annually as compensation for their services, the following sums:

The Governor, four thousand, five hundred dollars; Lieutenant Governor, one thousand dollars: Secretary of State, two thousand, five hundred dollars; Attorney General, four thousand dollars; State Treasurer, three thousand dollars; State

Auditor, two thousand, five hundred dollars; State Examiner and Inspector, three thousand dollars; Chief Mine Inspector, three thousand dollars; Labor Commissioner, two thousand dollars; Commissioner of Charities and Corrections, one thousand, five hundred dollars; Corporation Commissioners, four thousand dollars each; Superintendent of Public Instruction, two thousand, five hundred dollars; the Insurance Commissioner, two thousand, five hundred dollars.

SEC. 16. The salary of the Justices of the Supreme Court of the State shall be four thousand dollars per annum, each, and that of the Judges of the District Court, three thousand dollars per annum, each, until changed by the Legislature.

SEC. 17. The members of the Board of Agriculture, Bank Commissioner, Clerk of the Supreme Court, and all other State officers, except as herein provided, or such as may be created, and all clerks and assistants, shall receive such compensation for their services as may be provided by law.

SEC. 18. Until otherwise provided by law, the terms, duties, powers, qualifications, and salary and compensation of all county and township officers, not otherwise provided by this Constitution, shall be as now provided by the laws of the Territory of Oklahoma for like named officers, and the duties and compensation of the probate judge under such laws shall devolve upon and belong to the judge of the county court: Provided, That the term of office of those elected at the time of the adoption of this Constitution, or first appointed under the provisions of the laws extended in force in the State, shall expire on the second Monday of January in the year nineteen hundred and eleven: And provided further, That county attorneys and judges of the county court of the several counties of the State, having a population of more than twenty thousand shall be paid a salary of two thousand dollars per annum; and of counties having a population of more than thirty thousand, a salary of twenty-five hundred dollars per annum; and of counties having a population of more than forty thousand, a salary of three thousand dollars per annum; such salaries to be paid in the same manner as is provided by law in force in the Territory of Oklahoma for the payment of salaries to county attorneys.

SEC. 19. Until otherwise provided by law, the boards of regents of the University of Oklahoma, of the Agricultural and Mechanical College, of the Normal Schools now established, of the University Preparatory School, and of the Colored Agricultural and Normal University, shall continue to hold their offices and exercise the functions thereof until their successors are elected or appointed and qualified.

SEC. 20. The Legislature shall provide by general, special, or local law for the equitable division of the property, assets, and liabilities of any county existing in the Territory of Oklahoma between such county and any new county or counties created in whole or in part out of the territory of such county.

SEC. 21. All property, real and personal, and credits, claims, and choses in action, belonging to the county of Day at the time of the admission of the State into the Union, shall be vested in and become the property of the county of Ellis: Provided, The Legislature shall provide, by general, special, or local law, for the equitable division of the assets of Day county, thus transferred to Ellis county, and of the liabilities of Day county, between the counties of Roger Mills and Ellis.

SEC. 22. The Clerk of the Supreme Court shall procure a seal and cause such inscription to be placed thereon as may be prescribed by the Supreme Court. Each clerk of the District Court shall procure a seal, and, under the direction of the Judge of the District Court, cause to be inscribed thereon the style of his office and the name of his county. Each County Clerk, County Treasurer, Register of Deeds, County Surveyor, and County Superintendent of Public Instruction, shall procure a seal, and, under the direction of the County Judge, cause to be inscribed thereon the style of his office and name of his county. Said seals shall be sufficient and used for all lawful purposes until otherwise provided by law: Provided, That, until any of such officers shall have procured a seal, the signature of any such officer shall be sufficient for all purposes without a seal.

SEC. 23. When this Constitution shall go into effect, the books, records, papers, and proceedings of the probate court in each county, and all causes and matters of administration and guardianship, and other matters pending therein, shall be transferred to the county court of such county, except of Day county, which shall be transferred to the county court of Ellis county, and the county courts of the respective counties shall proceed to final decree or judgment, order, or other termination in the said several matters and causes as the said probate court might have done if this Constitution had not been adopted. The District Court of any county, the successor of the United States Court for the Indian Territory, in each of the counties formed in whole or in part in the Indian Territory, shall transfer to the county court of such county all matters, proceedings, records, books, papers, and documents appertaining to all causes or proceedings relating to estates: Provided, That the Legislature may provide for the transfer of any of said matters and causes to another county than herein prescribed.

SEC. 24. Until otherwise provided by law, the seal of the probate court in the counties of the

Territory of Oklahoma shall be the seal of the county courts, and in that part of the State heretofore comprising the Indian Territory and Osage Indian Reservation, and in the new counties created in the Territory of Oklahoma, until the county court shall have procured a proper seal, the signature of the county judge shall be sufficient for all purposes without a seal.

SEC. 25. Any county, city, incorporated town, township, board of education, school district, or other municipality, either in the Territory of Oklahoma or the Indian Territory, that shall owe, at the time of the admission of the State into the Union any indebtedness, evidenced by warrants, script, or other evidence of indebtedness, is authorized, through the proper officers thereof, to make provision for the payment of, and to pay, such indebtedness, either by tax levy or by issuing bonds in lieu thereof, in accordance with and under the provision of the laws extended in force in the State: Provided, That the limitation upon the amount of indebtedness that may be created by any county, city, incorporated town, township, board of education, school district, or other municipality, and upon the amount of taxes that may be levied by any county, city, incorporated town, township, board of education, school district, or other municipality, under the provisions of this Constitution, or of law, shall not apply to the indebtedness, the levying of taxes, and the issuing of bonds provided for herein.

SEC. 26. All cases, civil and criminal, pending, upon the admission of the State into the Union, in the Supreme Court of the Territory of Oklahoma, on appeal or writ of error, from the district or probate courts of any county or subdivision within the limits of the State, and the papers, records, proceedings, and seal of said court shall be transferred to the Supreme Court of the State, except as is otherwise provided in the Enabling Act of Congress. And all cases, civil and criminal, pending, on the admission of the State into the Union, in the United States Court of Appeals for the Indian Territory, and the papers, records, and proceedings of said court, shall be transferred to the Supreme Court of the State, except as is otherwise provided by the Enabling Act of Congress and the amendments thereto.

SEC. 27. All cases, civil and criminal, pending, at the time of the admission of the State into the Union, in the District Courts of the Territory of Oklahoma, in any county within the district, and the records, papers, and proceedings of said District Court, and the seal and other property appertaining thereto, shall be transferred into the District Court of the State for such county, except as is provided in the Enabling Act of Congress, and all cases, civil and criminal, pending, at the time of the admission of the State into the Union, in the United States Court for the Indian Territory, within the limits of any county created in whole or in part within the limits of what was heretofore the Indian Territory, and all records, papers, and proceedings of said United States Courts for the Indian Territory, and the seal and other property appertaining thereto shall be transferred to the District Court of the State for such county, except as is provided in the Enabling Act of Congress and the amendments thereto: Provided, That the Legislature may provide for the transfer of any such cases from one county to another county.

SEC. 28. The terms and provisions of an Act of Congress, entitled "An Act to Amend Section Sixteen, Seventeen and Twenty, of an Act Entitled 'An Act to Enable the People of Oklahoma and Indian Territory to form a Constitution and State government and be admitted into the Union on an equal footing with the original states; and to enable the people of New Mexico and Arizona to form a Constitution and State government and be admitted into the Union on an equal footing with the original states,'" are hereby accepted, and the jurisdiction of the cases enumerated therein is hereby assumed by the Courts of the State.

SEC. 29. Any person who shall be a qualified elector of any county of a judicial district at the time of the election held to ratify this Constitution, and who shall, in all other respects, be eligible under the provisions of the Constitution, to be elected judge of the District Court of such district, shall be eligible to be elected judge of the District Court of such district at the first election held for the election of State officers.

SEC. 30. Any person who shall have been a resident of the territory within the limits of the State for a period of one year next preceding the date on which the election for the ratification of the Constitution is held, and who shall otherwise be eligible, under the provisions of this Constitution, to be elected to any State office, shall be eligible to be elected to any such State office at the first election held for the election of State officers.

SEC. 31. The assessment of property in the Osage Indian Reservation for the year nineteen hundred seven, by the authorities of Pawnee County shall be the assessment of Osage County for the year nineteen hundred seven, and the proper authorities of Pawnee County shall levy a tax on the property of the Osage Indian Reservation for the year nineteen hundred and seven, as now provided by law, and immediately upon the admission of the State into the Union, the county treasurer of Pawnee County shall turn over to the county treasurer of Osage County the tax books and records of taxes in the Osage Indian Reservation, so made for the year nineteen hundred seven,

and the treasurer of Osage County shall proceed and have the authority to receive all such taxes in the Osage Indian Reservation for the year nineteen hundred seven, and such taxes shall be collected and enforced in the manner provided by law. And there shall also be collected, in addition to the tax so levied by the authorities of Pawnee County, a county school tax of ten mills on the dollar of the assessed valuation, and the same shall be and become the property of the said Osage County: Provided, That, out of the funds so collected, the county treasurer of Osage County shall pay to the county treasurer of Pawnee County the costs and expenses of making such assessment and the levying of such taxes.

SEC. 32. The Legislature shall provide by general, special, or local law for the equitable division of the property, assets, and liabilities of any school district existing in the Territory of Oklahoma between such school district and any new school district created in whole or in part out of the territory of any such school district, as may be affected by a change in the county boundaries under this Constitution.

SEC. 33. All attorneys-at-law licensed to practice in any court of record of the Territory of Oklahoma, or in any of the United States Courts for the Indian Territory, or any court of record of any of the five Civilized Tribes, shall be eligible to practice in any court of the State without examination.

SEC. 34. Until otherwise provided by law, any newspaper, published at the time of the admission of the State into the Union, in any new county, created in whole or in part out of the territory of any county of Oklahoma Territory, or in any county, created in whole or in part, out of territory within the limits of the Indian Territory or Osage Indian Reservation, shall, under the laws extended in force in the State, be considered, in law, to have been published continuously for fifty-two weeks in said county and shall be a newspaper entitled to publish all legal notices, advertisements, or publications of any kind required or provided by any law of the State.

SEC. 35. All debts and indebtedness, authorized to be incurred by the Constitutional Convention of the proposed State of Oklahoma, and all expenses of holding the election for the ratification or rejection of this Constitution and for the election of officers of a full state government, which shall remain unpaid after the appropriation made by the Congress of the United States has been exhausted, are hereby assumed by the State; and it is hereby made the duty of the Legislature, at its first session, to provide for the payment of same: Provided, That the debts and indebtedness, the payment of which is hereby assumed by the State, shall not include any debt or expense as a salary or compensation of the delegates of the Constitutional Convention.

SEC. 36. The Ordinance adopted by the Constitutional Convention, entitled, "An Ordinance, providing for an election, at which the proposed Constitution of the proposed State of Oklahoma shall be submitted to the people thereof for ratification or rejection, and submitting separately to the people of the proposed State of Oklahoma the proposed prohibition article, making the terms of the Enabling Act uniformly applicable to the entire State, for ratification or rejection, and for the election of certain state, district, county and township officers created by such proposed Constitution, and for the election of members of the Legislature of said proposed State of Oklahoma and for five Representatives to Congress," is hereby ratified and shall be valid for all the purposes thereof.

SEC. 37. Nothing in this Constitution contained shall legalize or make valid any illegal or invalid indebtedness of any county, city, incorporated town, township, board of education, school district or other municipality, either in the Territory of Oklahoma or the Indian Territory, nor impair any defense against the payment of the same.

SEC. 38. Should the first session of the Legislature, provided by this Constitution, fail to provide for the division of the property, assets and liabilities of any county existing in the Territory of Oklahoma between such county or counties created in whole or in part out of such county original jurisdiction is hereby conferred upon the Supreme Court to make equitable division of such property, assets and liabilities, and for the purpose of hearing and receiving evidence and reporting findings of law and fact may appoint a special Master in Chancery in any such case.

SEC. 39. The qualifications prescribed by the laws of Oklahoma shall not apply to Superintendents of Public Instruction, elected at the time of the ratification of this Constitution, in the Indian Territory, and Osage Indian Reservation.

SEC. 40. The terms of all officers of the State government elected at the time of the adoption of this Constitution shall begin upon the admission of the State into the Union.

SEC. 41. All persons elected at the time of the adoption of this Constitution to any of the offices provided under the Constitution shall be deemed to have duly qualified upon their taking the oath of office before any officer authorized by law to administer oaths, and executing such bond as may be required by law.

SEC. 42. All officers elected at the time of the adoption of the constitution shall execute such official bond as may then be required by law or thereafter required by act of the Legislature; and such bonds shall inure to the benefit of the State

or other beneficiary, for whose protection or security the same shall be required.

SEC. 43. When this Constitution shall have been ratified by the people of the State of Oklahoma and the State admitted into the Federal Union, under the same, as engrossed on parchment and signed by the officers and members of this Constitutional Convention, it shall be filed in the office of the Secretary of State and sacredly preserved by him, as the fundamental law of the State of Oklahoma.

Done in open convention at the City of Guthrie, in the Territory of Oklahoma, on this, the sixteenth day of July, in the year of our Lord one thousand nine hundred and seven; and the Independence of the United States of America one hundred and thirty-first.

WM. H. MURRAY, President of the Constitutional Convention of the proposed State of Oklahoma and Delegate from District No. 104.

ATTEST:

JOHN McLAIN YOUNG,
Secretary.

(SEAL) CHAS. H. FILSON,
Secretary of Oklahoma.

PETE HANRATY, Vice President.

ALBERT H. ELLIS,
Second Vice President, and Delegate District 14.

PHILIP B. HOPKINS, District 75.

C. N. HASKELL, District 76.

C. S. Leeper, 96.
T. O. James, Dist. No. 1.
C. H. Pittman.
J. H. N. Cobb.
C. W. Bord, 78.
W. S. Dearing, Dist. 44.
David S. Rose, Dist. 15.
Geo. A. Henshaw, Dist. 107.
W. F. Hendricks, Dist. 10.
James H. Chambers, Dist. 105.
William I. Caudill, Dist. 50.
Cham Jones, Dist. 101.
John M. Carr, Dist. 54.
I. B. Littleton, Dist. 32.
J. B. Tosh, Dist. 52.
J. K. Hill, Dist. 63.
J. J. Savage, Dist. 48.
J. S. Buchanan, Dist. 34.
J. C. Graham, Dist. 106.
J. A. Alderson, Dist. 12.
Thad D. Rice, Dist. 88.
A. G. Cochran, Dist. 98.
William N. Littlejohn, Dist. 78.
James R. Copeland, Dist. 62.
C. V. Rogers, Dist. 64.
B. E. Bryant, Dist. 47.
Samuel W. Hayes, Dist. 85.
James I. Wood, Dist. 89.
David Hogg, Dist. 43.
Flowers Nelson, Dist. 68.
Boone Williams, Dist. 97.
W. L. Helton, Dist. 24.
Edward R. Williams, Dist. 3.
J. F. King, Dist. No. 16.
J. W. Swarts, Dist. 60.
W. E. Banks, Dist. 51.
R. J. Allen, Dist. 93.
Charles M. McClain, Dist. 86.
Fred C. Tracy, Dist. 2.
G. M. Berry, Dist. No. 18.
William C. Liedtke, Dist. 83.
J. A. Baker, Dist. 81.
T. C. Wyatt, Dist. 33.
Charles L. Moore, Dist. 13.
A. L. Hausam, Dist. 70.
J. J. Quarles, Dist. 56.
Ben F. Harrison, Dist. 88.
E. G. Newell, Dist. 19.
Hamner G. Turner, Dist. 80.
Delphas G. Harned, Dist. 9.
J. Howard Langley, Dist. 65.
G. W. Wood, Dist. No. 8.
J. S. Lattimer, Dist. 99.
Jno. B. Harrison, Dist. 45.
Joel M. Sandin, Dist. 22.
L. J. Akers, Dist. 102.
John L. Mitch, Dist. 29.
W. A. Ledbetter, Dist. 103.
Christopher C. Mathis, Dist. 100.
Edwin T. Sorrells, Dist. 92.
Carlton Weaver, Dist. 87.
Henry S. Johnston, Dist. 17.
J. E. Sater, Dist. 20.
Milas Lasater, Dist. 94.
S. W. Ramsey, Dist. 30.
R. L. Williams, Dist. No. 108.
Henry L. Cloud, Dist. 23.
E. F. Messenger, Dist. 82.
John J. Carney, Dist. 36.
Gabe E. Parker, Dist. 109.
W. C. Hughes, Dist. 28.
H. O. Tener, Dist. 42.
C. H. Bower, Dist. 41.
J. K. Norton, Dist. 35.
Matthew J. Kane, Dist. 37.
Joseph J. Curl, Dist. 57.
O. H. P. Bruner, Dist. 77.
A. S. Wyly, Dist. 72.
William H. Eddy, Dist. 53.
T. J. Leahy, Dist. 56.
George Martin Bilby, Dist. 6.

Territory of Oklahoma, Logan county:

I, William H. Murray, President of the Constitutional Convention of the proposed State of Oklahoma, do hereby certify that the within and

foregoing is the original parchment enrollment of the Constitution and the several articles thereof adopted by the Constitutional Convention of the proposed State of Oklahoma, to be submitted to the people of the proposed State of Oklahoma for ratification, and that all the interlineations therein contained and all the erasures and words stricken out, were made and done before the same was signed by the President, the Vice Presidents, and the members of the convention.

Witness my hand this the sixteenth day of July, A. D. nineteen hundred and seven.

WM. H. MURRAY,
President of the Constitutional Convention of the proposed State of Oklahoma.
Attest: JOHN McLAIN YOUNG, Secretary.

Resolution Adopting the Constitution of the United States.

Whereas, the enabling act provides that a declaration be made by the delegates to this convention adopting the constitution of the United States; therefore, be resolved by the organized convention, that the delegates elected to the constitutional convention for the proposed State of Oklahoma, assembled in Guthrie, the seat of government of said Oklahoma Territory, do declare on behalf of the people of said proposed state, that they adopt the constitution of the United States.

I hereby certify that the above and foregoing resolution was duly passed by the convention upon its organization, on the 21st day of November, A. D. 1906.

WM. H. MURRAY,
President of the Constitutional Convention.
Attest: JOHN McLAIN YOUNG, Secretary.

Prohibition.

The manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within this state, or any part thereof, is prohibited for a period of twenty-one years from the date of the admission of this state into the union, and thereafter until the people of the state shall otherwise provide by amendment of this constitution and proper state legislation. Any person, individual or corporation, who shall manufacture, sell, barter, give away, or otherwise furnish any intoxicating liquor of any kind, including beer, ale and wine, contrary to the provisions of this section, or who shall within the state, advertise for sale or solicit the purchase of any such liquors, or who shall ship or in any way convey such liquors from one place within the state to another place therein, except the conveyance of a lawful purchase as herein authorized, shall be punished on conviction thereof, by fine not less than fifty dollars and by imprisonment not less than thirty days for each offense: Provided, That the legislature may provide by law for one agency under the supervision of the state in each incorporated town of not less than two thousand population in the state; and if there be no incorporated town of two thousand population in any county in this state, such county shall be entitled to have one such agency, for the sale of such liquors for medicinal purposes; and for the sale for industrial purposes, of alcohol which shall have been denaturized by some process approved by the United States commissioner of internal revenue; and for the sale of alcohol for scientific purposes to such scientific institutions, universities, and colleges as are authorized to procure the same free from tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in a sum not less than one thousand dollars, conditioned that none of such liquors shall be used or disposed of for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States and the payment of such special tax by any person within the state shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is to be used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regular practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered, and the register thereof together with the affidavits and prescription pertaining thereto, shall be open to inspection to any officer or citizen of the state at all times during business hours. Any person who shall knowingly make a false affidavit for the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for treatment of disease which after his own personal diagnosis he shall deem to require such treatment, shall, upon conviction thereof, be punished for each offense by fine of not less than two hundred dollars or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency, who shall be convicted of making any sale or other disposition of liquor contrary to these provisions shall be punished by imprisonment for not less than one year and one day. Upon the admission of this state into the union these pro-

visions shall be immediately enforceable in the courts of the state; Provided, That there shall be submitted separately, at the same election at which this constitution is submitted for ratification or rejection, and on the same ballot, the foregoing Article ——— entitled "Prohibition," on which ballot shall be printed FOR STATE-WIDE PROHIBITION and AGAINST STATE-WIDE PROHIBITION: And Provided Further, That, if a majority of the votes cast for or against State-wide prohibition are for State-wide prohibition, then said Article ——— shall be and form a part of this constiution and be in full force and effect as such, as provided therein; but, if a majority of said votes shall be against State-wide prohibition, then the provisions of said article shall not form a part of this constitution and shall be null and void.

I hereby certify that the above and foregoing provision and ordinance submitting the same separately to a vote of the people of the state as heretofore adopted on the 11th day of March, A. D. 1907, as above engrossed, was adopted as engrossed upon roll call for the purpose of such separate submission, on this the 22nd day of April, Anno Domini, 1907.

WM. H. MURRAY,
President of Constitutional Convention,
Attest: JOHN McLAIN YOUNG, Secretary.

Be it ordained by the constitutional convention for the proposed state of Oklahoma, that said constitutional convention do, by this ordinance irrevocable, accept the terms and conditions of an Act of the Congress of the United States, entitled, "An Act to Enable the People of Oklahoma and the Indian Territory to form a Constitution and State Government and be admitted into the union on an equal footing with the original states; and to Enable the People of New Mexico and Arizona to form a Constitution and State Government and be admitted into the union on an equal footing with the original states," approved June the sixteenth, Anno Domini, Nineteen Hundred and Six.

I hereby certify that the foregoing ordinance Accepting the terms and conditions of the Enabling Act as the same has heretofore been passed and engrossed, was engrossed with the engrossed copy of the constitution on parchment, was read as engrossed and roll call had thereon and the same duly adopted by a majority of the votes of all the delegates elected to and constituting this convention, at 11:41 o'clock a. m., this 22nd day of April, Anno Domini, 1907.

WM. H. MURRAY,
President of Constitutional Convention.
Attest: JOHN McLAIN YOUNG, Secretary.

Adair County.

Adair county, situated on the Arkansas border, is a rugged country, with a large forest area. Fruit and potatoes are among its important agricultural yield, though the staple crops of cotton and corn are also largely depended on.

The population of the county by the statehood census was 9,115. Stilwell, the largest town, had a population of 948, and Westville, the county seat, a population of 624. Stilwell was named for the chief promoter of the Kansas City Southern Railway, which as the Kansas City, Pittsburg and Gulf was built about 1897. The building of the Frisco line about 1902 made Westville, the junction point of the two roads, a place of advantageous location, and when the new county was formed it became the county seat.

Atoka County.

Atoka county just before statehood had a population of 12,013. Agriculturally the county is not so highly developed as many other counties in the southern part of the state, and its principal resource has for a number of years been the coal-mining industry. Corn and cotton are good crops. A large amount of the lands of this county has been in the coal leases, and the removal of restrictions in 1908 promises to open a considerable part of the agricultural lands to improvement and settlement. The area of this county has been benefited by railroad facilities since 1872, when the M., K. & T. line was completed. For many years Atoka was the foremost shipping point for a broad district of country lying both east and west. The principal overland road through the southern part of Indian Territory intersected the railroad at Atoka.

Atoka, besides being the county seat of the large county of the same name, has been a noted town in the Choctaw Nation for a

long time. It was here that the agreement was made in 1897 which was the first decisive step toward allotting the lands of Indian Territory among the individual Indians. Atoka was also a Choctaw Indian court town, and the seat of a U. S. commission's court, both of which added to the consequence of this center of trade. Atoka has been a locality since the sixties, when it was a stage station on the overland road. The railroad in 1872 caused it to increase more rapidly, and thenceforth it attracted a number of white settlers. The famous missionary, J. S. Murrow, settled at Atoka about 1867 and prepared the petition for the first postoffice at that point. From here he continued to direct the missionary work of the Baptist church among this nation, and is the last and most venerable of that class of pioneers of Oklahoma.

Atoka in 1907 had a population of 1,700, and has recently made rapid advances as a municipality, having established waterworks, electric light plant, ice plant and other business concerns that indicate progress in modern affairs.

The principal towns besides the county seat are Caney, with a population of 300, and Stringtown, with 200. Stringtown was formerly an important railroad point for the region about Lehigh and Coalgate, before the railroad reached the latter places.

Bryan County.

Bryan county was named in honor of William J. Bryan. Its area of about nine hundred square miles, two sides of which are bounded by the Red and Washita rivers, is a well developed agricultural region, producing corn, cotton and wheat, the farm lands being held at a higher than average value of Oklahoma real estate. The M., K. & T. Railroad, the oldest railway line in Oklahoma, crosses the county, while the two lines of the Frisco have been built during the present decade. The Missouri, Oklahoma and Gulf Railroad, now building southward from Wagoner, will traverse the county, if constructed as now proposed.

Durant is the county seat, and was named for the family which lived on the site at the time the railroad was built in 1872. Members of this family are still prominent here. Dixon Durant kept the first store and was the first postmaster. This has been a popular trading center for the citizens of the Choctaw Nation since the railroad came, and in recent years Durant has made much progress. It was water works, and is acquiring the facilities of education and municipal convenience demanded in the modern cities. The Presbyterian college and the public schools are adequate and progressive. The population of Durant in 1907 was 4,600, having increased from about 3,000 in 1900.

Caddo, near the north line of the county, was a court town of the Choctaws in territorial days, and has for years been an important commercial point. The public school is one of the most modern institutions in this section of the state. The population of Caddo is 1,300.

Sterrett, formerly called Cale, is another shipping point and town of the county. It is said to have been the first townsite in which white persons outside of the Indian Nation could purchase lots and get a title direct from the tribe. The first sale of lots occurred in September, 1899. The railroad station and some village activities had been here since the construction of the railroad.

Since the building of the line of the Frisco along the Red river valley, various towns have attained commercial standing on that route. Bokchito in Bryan county is a

prosperous village, and the center of an interesting community.

Carter County.

Carter county contains the city of Ardmore, the metropolis of south central Oklahoma, and in its natural products and resources is one of the richest and most diversified counties of the state. Some of the streets of Ardmore are paved with asphalt which is produced from the rock asphalt deposits of Carter county. Though a considerable part of the county is of such rugged topography as not to be fit for successful agriculture, the aggregate of live stock and corn, and cotton crops is one of the largest in the state. A few years ago Ardmore claimed to be the largest local cotton market in the world.

Ardmore took the lead among the various towns founded along the line of the Santa Fe during the late eighties, and by the census of 1900 was the largest town of Indian Territory. At that time its population was 5,681, Muskogee at that time having 4,226 population. Ardmore has been the home of many of Oklahoma's foremost men, in politics, the professions and business. Being the judicial center for the southern district of Indian Territory, Ardmore attracted a large number of lawyers, and the territorial bar which was represented there contained many men whose influence was felt in the developments which led up to statehood and has also been potent under the present government.

Cherokee County.

Cherokee county is the center of the old Cherokee Nation, the scene of many of the events which shaped the history of the nation of Cherokees and also of the state of Oklahoma. At Tahlequah has been the seat of the Cherokee government since the time of the civil dissensions in 1839. It is still the business metropolis of the county, with a population of 1,916. There was no railroad in the county until 1902, but the presence of the capitol, the national schools and other institutions of the Cherokees made Tahlequah the center of much of the national life of this nation.

Choctaw County.

Choctaw county comprises some of the oldest communities of Oklahoma. Old Fort Towson and Doaksville in the eastern part of the county were the scene of treaties and other events connected with the settlement of the Choctaw people in this country. Fort Towson was one of the military posts of the Indian country, but has been abandoned for that purpose over half a century. One interesting fact is that cotton was first raised on a large scale in the vicinity of Fort Towson. That was more than seventy years ago, hence the growing of cotton is not one of the modern industries of Oklahoma. Cotton, corn and potatoes are abundant crops in Choctaw county, which is a good agricultural area, but an important industry for a number of years has been lumber manufacture. About a third of the county's area is covered with forest, much of it adapted to profitable lumbering, and there are several large companies and individual operators whose sawmills are perhaps the largest productive enterprise of the county.

The population of Choctaw county by the census of 1907 was 17,340, the principal towns being, Hugo, 2,676; Boswell, 836; Fort Towson, 745; Grant, 440; Soper, 296.

Goodland was formerly an important trading center of this county. The Spring family, prominent in Choctaw history, lived in this vicinity, and members of the family were concerned in the first activities of the place. The building of the Frisco Railroad

from Fort Smith to Paris during the eighties caused the establishment of shipping stations along the route, and Goodland was the name of the community that grew up around the railroad station. The building of the Red river valley line of the Frisco about 1903 gave this county an east and west line, and the intersection of the two was at a point several miles south of Goodland. The junction point soon proved the most attractive commercial center of the vicinity, and the town of Hugo was promoted and developed and deprived Goodland of its former prestige, until the latter is now little more than a name. Hugo is the county seat.

Coal County.

Coal county, which comprises fourteen and a half congressional townships situated at the western edge of the old Choctaw Nation, is part of the great coal section of Oklahoma. The growing of corn and cotton and other crops and raising of live stock, though a valuable resource in the aggregate, are of minor importance in this county compared to the output of the coal mines. The development of the mines began in the eighties and for this reason the settlement of white men in the region now comprised in Coal county began earlier than in the purely agricultural counties. The various coal operators have been mining coal here for a quarter of a century. The population of the county in 1907 was 15,585, half of which was grouped in or about the three principal towns, Coalgate, Lehigh and Phillips. Coalgate is the metropolis of the county, with a population of 2,921. The census of 1900 gave it 2,614. Lehigh, the county seat of the new county, has a population of 2,188, against 1,500 in the census of 1900. Phillips is a town of 650 people.

A branch of the M., K. & T. Railroad extended from Atoka to Lehigh in the early nineties. This was primarily little more than a side track to the coal mines, and as such was gradually extended on to Coalgate, where in 1901-02 it was connected with the Choctaw, Oklahoma and Gulf. The construction of these railroads marks the beginning of the towns and the development on a large scale of the coal mines.

During the present decade Coalgate has become a very enterprising little city, has built a system of water works, has established public schools of a high grade, and with its factories and business concerns, churches, is one of the flourishing places of the new state.

Lehigh, the county seat, has been a center of the coal industry for many years. This is now the eastern terminus of the Oklahoma Central Railroad.

Craig County.

Craig county, taken from the northern portion of the Cherokee country and comprising the country adjacent to Vinita, which is the county seat, has a population of 14,955 by the statehood census. Farming, stock raising and brick manufacture are given as the principal industries of the county. A great variety of agricultural crops are produced here, but the county is a little too far north to be ranked among the cotton sections of the state.

In one important respect the territory comprising this county has a great advantage over the rest of the state. The two first railroads of the state were built to a junction point at Vinita, and that town was the first railroad town, and for some years remained the most important shipping point, of old Indian Territory. The construction of a part of the M., K. & T. to the north line of the Territory was completed in 1870 (see history of Railroads, else-

where), and within the next two years the line was opened to the Red river. At the same time the Atlantic and Pacific (later the Frisco) was being built from Monett, Missouri, to Vinita, which remained its terminus for a number of years. The town of Vinita was platted by the authorities of the Cherokee Nation in February, 1872. Its original name of Downingville was changed through the influence of Col. E. C. Boudinot. The name is said to have been given in honor of a sculptress, who was a friend of Colonel Boudinot. For some time the M., K. & T. would not stop trains at the crossing nor establish a station for Vinita. The Frisco kept a freight train standing over the crossing and in this way held up the trains of the other road until passengers could get off. Finally the railroads compromised their differences.

Vinita was incorporated in 1873 under the Cherokee laws. For several years the town was noted for its disorder and the congregation here of a large number of lawless characters. Several marshals were frightened out of office, until a veteran fighter was found who was willing in the course of his duty to give battle to all disturbers of the peace, and this man soon brought a condition of comparative quiet and order upon the town of Vinita.

The population of Vinita in 1907 was 3,157. Besides being the county seat of the new county, it has for a number of years been noted as an education and business center. Several denominational schools and colleges are located there, and a free public school system has been in vogue for the past ten years. Vinita has paved streets and other municipal utilities, and besides its retail business has some large factories and wholesale houses.

There are no large towns in the county outside of the county seat. The population of the smaller centers by the last census is: Welch, 481; Bluejacket, 427; Centralia, 405; Big Cabin, 190.

Creek County.

Creek county is the northwest corner of the old Creek Nation. With an area of 972 square miles, and with about 200,000 acres producing crops of corn, cotton, wheat and oats, the county is also one of the centers of petroleum production. Practically the entire eastern portion of the county is a vast oil field, derricks rising like a forest from all the valleys and climbing to the crests of all the hills. Kiefer is a village surrounded by derricks, and though not a "city of tents" its buildings are quite generally of the unpainted boards, tar-paper roofs, and general uniformity of pattern which characterize the very new oil towns. Sapulpa, the county seat, which also derives much of its prosperity from the oil industry, is a much older town, comparatively speaking, and a substantially built little city with many improvements.

Sapulpa for a number of years was the western terminus of the Frisco Railroad. This road, constructed under one of the old railroad charters granted shortly after the Civil war (described in a previous chapter) originally came into the Territory only as far as Vinita, and then in the early eighties was continued into the Creek Nation and a few miles beyond the Arkansas river, and there stopped short as if on the edge of civilization and for fifteen years failed to advance a mile into the splendid country both west and south. About 1898 began the building of the extension west to Oklahoma City and in 1900 the main line to Texas was completed.

Sapulpa was named for one of the honored citizens of the Creek tribe, one of his sons being a prominent resident of this

city. The railroad reached Sapulpa in 1884, and during the years when it remained a terminus and hence a supply point for nearly all the region to the west of it, this town was a frontier place and a rendezvous of characters the like of which can never again assemble anywhere in the state of Oklahoma. A noted place in the history of border days is occupied by the Stockade Hotel, an institution which once flourished in Sapulpa. On its dirt floor members of the Dalton gang, the French and James boys, Cole and Bill Younger and other outlaws are said to have danced and caroused. As a shipping point this was a regular resort for the cattlemen of an earlier day, and the cowboys also supplied their share of revelry and excitement to the wild and liberal scenes that characterized this little community.

The developments of the past ten or fifteen years have completely transformed the frontier village. Sapulpa, besides being one of the busy oil centers of the state, has for a number of years held an important position as a cotton market, and its railroad shops, factories and general commercial activities are substantial resources of a prosperous town.

The population of the principal towns of Creek county as given in the federal census of 1907 was: Sapulpa, 4,294; Bristow, 1,134; Mounds, 675; Manford, 179. By the census of 1900 Sapulpa had 891 inhabitants, and Bristow, 626.

The town of Bristow was founded when the Oklahoma City extension of the Frisco was begun in 1898, the plat being surveyed in March of that year, and the town was incorporated early in 1899. Postoffice, hotels, stores, schools, churches, and practically all the features of town life had come into existence during the first year.

Delaware County.

Delaware county has the least railway mileage of any county in eastern Oklahoma. It is not accessible at any point by railroad from Oklahoma. A branch of the Frisco from Southwest City, Missouri, to Grove, is a line about twelve miles in length. At the statehood census this county had a population of 9,876. Grove, the county seat, has a population of 694, and Kansas, next in size, is an inland village in the southern part of the county with 108 inhabitants.

Despite its lack of railroads and commercial development Delaware county is a very good agricultural region, raises good crops of corn and wheat, and with the new conditions arising from statehood some notable progress may be expected in a few years. A large portion of the county is classed as forest lands.

Garvin County.

Garvin county is one of the leading counties of the state in agricultural and live stock production. The Washita valley is a considerable part of the county's total area, and the cotton, alfalfa and corn crops are among the richest in yield in the state. A great amount of capital and enterprise has been directed to the development of this county since statehood. The county has a population of 22,787, and its principal towns are: Paul's Valley, 2,157; Wynnewood, 2,032; Lindsay, 1,102; Stratford, 445; Maysville, 284; Paoli, 229.

Paul's Valley was named for an enterprising white citizen of the Chickasaw Nation who turned the rich fertility of the valley to good account. He and his family leased the lands on profitable terms to the cattlemen and farmers and later laid out a town. With the building of the main line of the Santa Fe through this valley in 1887,

the town attracted a number of persons to engage in trade and the various lines of business possible in this vicinity. Paul's Valley has also acquired some importance as a railroad center, a branch of the Santa Fe having been extended up the Washita valley to Lindsay, where recently a branch of the Rock Island from Chickasha has joined it; and also the Shawnee branch of the Santa Fe connects with the main line at this point.

Wynnewood, the second city in population in the county, was founded in 1887 with the advent of the railroad. It is a very progressive municipality, has water works, electric light plant, has modern school and church buildings, and commercially is one of the best towns of the old Chickasaw Nation.

Haskell County.

Haskell county in 1906 ranked fifth among the coal-producing counties of Indian Territory. This industry is an important one, though the county is more essentially an agricultural county than some of the other counties in the coal district. The population of the county in 1907 was 16,865, the largest towns according to the census being: Chant, 1,232; Stigler, 1,001; McCurtain, 528; Tamaha, 464.

Until the present decade the territory now known as Haskell county was entirely without railroads. The Fort Smith and Western was built through about 1902, and two years later came the Midland Valley. Kinta, McCurtain, Chant were benefited by the first road, and the second resulted in the permanent establishment of Stigler, which is the county seat and a growing town. Tamaha was one of the business centers of the period when traffic was carried on by wagon and stage.

Stigler has been the seat of some commercial activity for many years, and some of its leading business men were here when Fort Smith and the stations along the M., K. & T. were the nearest supply points, and all communication with them was by wagon road.

Hughes County.

Hughes county, which was named for the Oklahoma City legislator, W. C. Hughes, was formed with irregular boundaries from the southwest corner of the old Creek Nation with a few townships and fractional townships from the Choctaw Nation south of the Canadian river. The county had a population in 1907 of a little less than twenty thousand. Besides its resources of agricultural lands and forest, Hughes county formed part of the oil and gas territory of the state.

Since about 1895 the territory of Hughes county has been traversed by a railroad (the Choctaw, Oklahoma and Gulf division of the Rock Island lines). In 1900 the Frisco built its line from Sapulpa to Denison, across the northwest quarter of the county, and about two years later the Fort Smith and Western was built through the northeast part. The principal towns of the county are located along these railroads. The new railroad, the Missouri, Oklahoma and Gulf, now in course of construction south from Wagoner and Muskogee, had trains in operation as far as Lamar in Hughes county by mid-summer of 1908.

The principal towns of the county at the census of 1907, though others have developed since then, were: Holdenville, 1,868; Wetumka, 966; Dustin, 511; Calvin, 389; Guertie, 317; Yeager, 300; Hannah, 153.

Holdenville, the county seat, was located when the Choctaw road was being constructed, and was incorporated in February, 1899. When train service began over

the Frisco from Sapulpa (November, 1900), the town began growing very rapidly, and by the census of 1900 had 750 inhabitants.

Johnston County.

Johnston county contains the old capital of the Chickasaw Nation, and in many other ways is identified with the past history of the Indian Territory. The site of old Fort Washita is near the southern line of the county. The Washita valley, a very fertile part of which is in Johnston county, has been connected more or less closely with the history of Oklahoma from the formation of the Indian country nearly a hundred years ago.

Johnston county is essentially an agricultural and livestock county, its crops of corn, cotton and alfalfa being its best assets. However, the county is not entirely without mineral resources. The granite from which the capital at Tishomingo is constructed was quarried in the county and has proved its value as a building stone.

Only within the past decade has the old capital town and the region contained in the modern county obtained connection with the outside world through railroads. The nearest railroad station for many years was Caddo on the M., K. & T. The brick from which the old council-house was built was hauled overland from Paris, Texas, and the traffic by wagon prevailed almost altogether until the Ardmore branch of the Choctaw, Oklahoma and Gulf was built through Tishomingo during the present decade. The construction of the Frisco line in 1900 removed many of the serious features of transportation through this region.

Both town and country have grown rapidly. The county has a population of 18,672, and the population of the principal towns according to the statehood census was: Tishomingo, 1,300; Wapanucka, 789; Ravia, 690; Mill Creek, 644; Mannsville, 529; Milburn, 416; Pontotoc, 299; Connersville, 148.

Latimer County.

Latimer county is located partly within the great coal area of the state, and more than half of its surface is classed as forest lands. In 1906 the territory contained in this county produced about half a million tons of coal, ranking third among the coal counties of the state. In former years the lumber industry was the largest single business resource of this region. Mining, farming and stock raising furnish the occupations for the greater portion of the inhabitants. The population of the county in 1907 was 9,349, Wilburton, the county seat, being the largest town, with 1,500 inhabitants.

Some of the pioneers of the Choctaw Nation were associated with the first developments of this county, and Red Oak and one or two other places have long been seats of some distinctive importance. But villages and towns were not encouraged to any extent until the building of the Frisco Railroad about 1886. The history of Talihina, in the southeast quarter of the county, begins with that event. The construction of the Choctaw, Oklahoma and Gulf Railroad from McAlester to the Arkansas line in the early nineties resulted in the development of the coal areas in the western part of the county, and gave an impetus to the little village community of Wilburton. Wilburton has since become a railroad center, and as the county seat of Latimer county has progressed toward municipal improvement, with water works, electric lights, a new school, and other facilities and enterprises.

LeFlore County.

LeFlore county was erected from the northeast corner of the old Choctaw Nation. Extending from the Arkansas river south along the Arkansas state line for a distance of over fifty miles, it is one of the largest counties of the state, and likewise has within its limits some of the interesting and picturesque places which attracted the attention of the earliest explorers in this region. The mountains of themselves have been landmarks of the Arkansas valley since the days of the French exploration, the names being reminiscent of that period. The Choctaws after their emigration made their first settlements in this county, and in the vicinity of the railroad town of Spiro is the site of old Scullyville, which during the last century was a well known center of the Choctaw people.

LeFlore county produces a large amount of coal, but its great quantities of commercial timber lands have kept many sawmills busy for a number of years. The raising of cotton and corn and other farm crops still remains one of the chief occupations, though the industrial activities are assuming a greater relative importance.

For many years Fort Smith was the nearest market and the principal commercial town for all the region now in this county. Fort Smith was the whisky town for a large part of Indian Territory, and was also important as the seat of the United States courts for Indian Territory until such courts were established within the Territory. Nearly all the region of this county was therefore tributary to Fort Smith during the greater part of the last century. During the past twenty years preceding statehood, however, many important changes have occurred in the economic conditions of this region. About 1886 the Frisco Railroad was constructed from Fort Smith to Red river. The first railroad facilities resulted at once in a very rapid improvement of the fortunes of the settlements at Cameron and Poteau and elsewhere along the route. Cameron was the chief business town until the building of the Kansas City, Pittsburg and Gulf (Kansas City Southern), in 1897, made Poteau a junction point, and started its progress toward the place of metropolitan size and influence in this region. At an earlier day, both before and after the building of the Frisco Railroad, Poteau was one of the wild settlements of the Nation, being one of the centers of the "boot-legging" business which had its source of supply at Fort Smith.

The Choctaw, Oklahoma and Gulf Railroad was extended as far as Wister Junction in the early nineties, and was later continued to the Arkansas line. Within the present century the Fort Smith and Western and the Midland Valley have both constructed their lines through portions of the county, resulting in the establishment of stations and the growth of village communities in different parts of the county. Bokoshe at the junction of the two roads just mentioned, in the northwest corner of the county, has attained considerable business prominence since the building of these roads. Spiro near the Arkansas river is the successor of the old Indian community of Scullyville, and resulted from construction of the Kansas City Southern about ten years ago.

The population of LeFlore county by the last census is 24,678, and the principal towns, most of which date their growth from the coming of the railroads, are as follows: Poteau, 1,726; Spiro, 962; Howe, 599; Heavener, 473; Wister, 410; Cowlington, 351; Panama, 290; Cameron, 183.

Poteau was incorporated under the general law of 1898, and it is said that G. H. Witte, who was elected mayor, was the first man to assume the duties of that office in the Indian Territory. Owing to the enterprising character of its citizens, Poteau has acquired many municipal improvements that would be in keeping with a city of greater population. It has municipal water works, electric lights, and has numerous industries and business enterprises that contribute to the general prosperity and welfare of both city and citizens.

Lincoln County.

Lincoln county comprises portions of the Iowa, Sac and Fox, and Kickapoo reservations. The two former were opened to settlement in September, 1891, and the Kickapoo reserve in May, 1895. The history of the opening of these lands is described on other pages.

In the report of the governor of Oklahoma territory in 1892, the year after the opening, the population of county A (as Lincoln county was first designated) was placed at 10,500, and the taxable property at $275,109.48.

The census figures for 1900 gives the population of Lincoln county in detail as follows:

Chandler city	1,430
Chandler township	946
Cimarron township	1,293
Creek township	1,909
Fox township	1,943
Iowa township	1,187
Keokuk township	2,090
Kickapoo township	1,545
McKinley township	887
North Choctaw township	961
North Wichita township	924
Osage township	1,525
Otoe township	1,048
Pawnee township	1,196
Ponca township	512
Seminole township	2,144
South Choctaw township	906
South Wichita township	804
Stroud city	800
Tohee township	880
Union township	944
Wellston city	383
Wellston township	750
Lincoln county	27,007

The population of the county according to the federal census taken before statehood was 37,293.

Lincoln county progressed rather slowly in proportion to its size and resources during the first decade after its settlement. This was due in the first place to the fact that the Kickapoo lands, forming a considerable portion of the total area, were not opened until 1895. A stronger reason was that this county was entirely without railroad facilities until the Frisco line was completed between Oklahoma City and Sapulpa about 1899. That was the first railroad to cross the county, and continued to be the chief transportation agency for the county in general until the construction of the Santa Fe from north to south, in 1904. Since then the Oklahoma City branch of the M., K. & T. has built across the northwest corner of the county, the Kingfisher-Guthrie branch of the Rock Island connects at Chandler with the Frisco, and the Fort Smith and Western has provided railroad facilities to the southeastern and central portions of the county.

Though the principal resources of the county consist in farming and stock-raising, with railroad facilities that are excelled by those of the few other counties in the state, Lincoln county has attained a remarkable

degree of development within the present decade. While the rural district has changed through the more productive methods of farming, the better homes and increased conveniences of living such as schools, telephones and rural delivery afford, a more conspicuous difference is seen in the towns and villages which have grown up during this period. When the census of 1900 was taken, only three towns were of sufficient size to be enumerated separately from the townships. These were located on the only railroad. The new railroads have brought out new towns, and both town and country life is raised to a higher plane. The principal towns of this county, with the population according to the last federal census, are: Chandler, 2,234; Prague, 998; Stroud, 1,313; Davenport, 512; Sparks, 503; Fallis, 321; Meeker, 320; Merrick, 100; Carney, 310; Agra, 382; Avery, 100; Wellston, 669; Warwick, 100.

Lincoln county began spending its public moneys for bridges and other important improvements at an early period of its history. Education also received attention, and there were 133 organized school districts in the county in 1900. Recently Lincoln county has erected a handsome court house. During previous years the county expended more money for bridges and other necessary improvements than for quarters for the county officials. The first court house cost but $2,000, and about $1,500 was spent for the first jail.

During the early years of the present decade the county seat town began a series of municipal improvements which have made Chandler one of the attractive smaller cities of the state. In 1904 fifty thousand dollars were expended in the construction of water works, an electric light system was one of the earlier utilities, and several excellent school buildings, library, nine churches and other advantages increase the attractiveness as a home and business center.

Love County.

Love county was named in honor of Robert H. Love, one of the ablest and most influential leaders of the Chickasaw Nation. The population of this county by the last census was 11,134. Bordering on Red river, the region contained within the county limits has been subject to development and improvement by stockmen and other men of enterprise for a longer period than the more inland parts of the old Chickasaw country. Burneyville and Thackerville have been well known settlements on the north banks of the Red river for many years, long before the railroads came into this section. The Santa Fe is the only railroad crossing the county, and since it was constructed the town of Marietta has become the metropolis of the region. The county seat town has a population of 1,500, while Burneyville has 300 and Leon 300, besides a dozen or more small hamlets and postoffices.

While in former years Love county was largely occupied by stockmen, its acres have since become productive of many agricultural crops, the diversity of the soil being proved by the yield of large quantities of cotton, corn, oats, millet, sorghum and potatoes, in addition to nearly a million dollars' worth of live stock.

McClain County.

McClain county, on the south side of the Canadian river, though formerly a part of the Chickasaw Nation, has been subject to white men's enterprise for a long time. The building of the Santa Fe Railroad through this vicinity in 1887 caused the building of towns along the right of way through the

nation and caused a great deal of exploitation and development by the intruder class. The subsequent opening of Oklahoma, just north of the river, was further effective in breaking down the isolation of this country.

The region set apart and bounded as McClain county has a large acreage of forest lands. Corn, cotton, alfalfa and potatoes are the principal crops of its soil. The population of the county is 12,888, the principal towns being: Purcell, 2,600; Byars, 550; Johnson, 230; Wayne, 200; Blanchard, 150.

Within the past two years the Oklahoma Central Railroad has been built through this county, intersecting with the main line of the Santa Fe at Purcell, and with the Shawnee-Paul's Valley branch at Byars, at which place a village of considerable commercial importance has sprung up within the last five years.

Purcell is a division point of the Santa Fe. The townsite was laid out in April, 1887, and the prosperity of the town has always been closely identified with the railroad. Merchants, professional men and others came to this locality during the first months, and during the period of agitation for the Oklahoma opening Purcell was a neutral town just south of the forbidden land, was the scene of much excitement and experienced a business boom during the transient residence of the "boomers." Purcell was one of the first towns of the Chickasaw Nation to adopt a system of free schools for its inhabitants. The town was incorporated in 1898, George F. Jones being the first mayor.

McCurtain County.

McCurtain county, named in honor of a family whose members have long occupied positions of distinction and worth among the Choctaw Nation, is one of the largest civil divisions of the state as regards area, but in population and general development is inferior to the average Oklahoma county. The Choctaws and some of the white intruders came to this county in the early years of the past century, and much of the enterprise and productive husbandry of the Choctaw people manifested themselves throughout the region now in McCurtain county. Hence, it is not meant to say that McCurtain county was without the agencies and institutions of civilization during all the years since it was first settled. But other causes have tended to an isolation of this section of Oklahoma. Only within the years of the present century has a railroad line penetrated the forest uplands and valleys of this county. The building of the Frisco Railroad, between 1901 and 1903, along the valley of the Red river, has produced many changes in this region. Hitherto there was practically no outlet for the splendid timber resources and other products of the county. Some corn and cotton were produced and taken overland to the nearest market towns, usually in Arkansas or Texas. Some lumbering was done and the streams used for transportation agencies.

McCurtain county has an area of nearly a million and a quarter acres, and according to an estimate made several years ago all but five percent of this is classed as forest lands. In recent years the county has furnished an increasing output of lumber.

The principal settlements are along the southern side of the county. Old Wheelock Academy, one of the famous institutions of learning among the Choctaws, was several miles from the station of Garvin. All the towns are small, but capital and enterprise are improving them rapidly. Idabel, the county seat, formerly Purnell, had a popu-

lation in 1907 of less than 150. Valliant is the metropolis of the county.

McIntosh County.

McIntosh county as formed by the authorities that constituted the state and the divisions thereof is the southeast corner of the old Creek Nation and also comprises a small area of territory formerly in the Cherokee jurisdiction. The M., K. & T. Railroad crosses the county, so that its territory has been favored by railroad facilities for over thirty-five years and the towns of Checotah and Eufaula are among the oldest towns of the Territory. In the last few years the Midland Valley, the Missouri, Oklahoma and Gulf, and the Fort Smith and Western have touched or crossed the boundaries of the county and afforded additional railroad facilities. This is one of the hill and forest counties of the state, and yet its cultivated area is considerable and its cotton, corn and other products are the principal resources. The county at the last census had a population of 17,975, the principal towns and their population being: Checotah, 1,525; Eufaula, county seat, 1,000; Wild Cat, 375; Hoffman, 344.

Eufaula, the county seat, was laid out by a syndicate of men who had extensive interests in the locality and who paid a thousand dollars to get the railroad station located where it is. Since the founding of the town in 1872 it has been an important trading point and cotton market, and since the town was incorporated in 1898 an excess of business has come with the establishment of banks, newspapers and other institutions.

Checotah, the metropolis of the county, was named after a noted Creek chief, Sam Chicote. Robert Burton erected the first store building there in 1888 and is considered the founder of the town. In Checotah was held, in 1893, the first meeting of the Dawes Commission with representatives of the five tribes. Checotah was incorporated in 1898 (the first Mayor being H. G. Turner).

Grady County.

Grady county, except its westernmost tier of townships, was part of the Chickasaw Nation until statehood. Its area is rolling prairie and fine farming country, but its development has practically begun since statehood. The population of the county at its last census was 23,420, the principal towns being as follows: Chickasha, 7,862; Minco, 725; Rush Springs, 588; Tuttle, 320; Verden, 312; Alex, 224; Ninnekah, 225; Bradley, 149. The population of Chickasha in 1900 was 3,209. This is one of the most enterprising cities of western Oklahoma, an important railroad center, and with vast tributary resources in the cotton and grain and stock raising country that surrounds it.

Chickasha was founded in the early nineties, when the main line of the Rock Island Railroad was built. The Rock Island has since extended its road west from this point to Mangum and also east toward Paul's Valley. The Lawton branch of the Frisco, and the completion (in 1908) of the Oklahoma Central to Chickasha, make this a center from which radiate lines of railroad in eight different directions.

Marshall County.

Ten years ago the country now comprised in the boundaries of Marshall county had no settlements and had not advanced in industrial development and civilization sufficiently to call for any special notice. In 1900 the Frisco Railroad from Sapulpa to Denison was completed. Along the railway right of way the townsite of Madill was laid

out, and the history of that thriving town is all contained within the present decade. The Frisco Railroad a year or so after the construction of the main line, built the southern Oklahoma branch from Ardmore east through the southern tier of counties to Arkansas. The two lines intersect at Madill, a circumstance which has increased the material advantages of this town.

The population of Marshall county at the recent census was 13,081, and of Madill, the county seat, 1,587. The other principal towns of the county are Kingston, 477; Oakland, 445; Woodville, 390. The county is nearly all adapted to agriculture, with corn and cotton as the principal crops.

Mayes County.

Mayes county was named in honor of one of the prominent families of the Cherokee Nation, Chief Samuel H. Mayes having been one of the most influential men of the nation during the years which saw the disintegration of the nation and the merging of its people with an American state. The county has a good deal of rough area and forest lands, and its principal industries are farming and stock raising. The population in 1907 was 11,064, and that of the principal towns was: Pryor Creek, 1,113; Chouteau, 344; Adair, 340.

These towns are located on the M., K. & T. Railroad, which furnishes the only railroad facilities in the county. Pryor Creek, the county seat, has long been a trade center in this section of the Cherokee country.

Muskogee County.

The county of Muskogee was formed by the members of the constitutional convention with very irregular boundaries, conforming in few respects to any of the old national and natural limits. The territory included in the county was formerly portions of both the Cherokee and Creek Nations.

The county has a varied wealth of resources. The abundant facilities of business, arising from the presence in the county of the second city of the state and of splendid railroad advantages, the rich agricultural possibilities of the county's soil, the magnitude of the mineral deposits, and other conditions conspire to give this county a foremost place in the economic and social progress of the different divisions of Oklahoma.

Muskogee county has a population (in 1907) of 38,341, the principal towns outside of Muskogee being: Porum, 1,108; Fort Gibson, 1,063; Haskell, 720; Boynton, 400; Webber Falls, 332; Bixby, 300.

The first railroad to reach the territory now included in Muskogee county, bringing with it inestimable advantages to the future growth and welfare of Muskogee city, was the M., K. & T., in 1872. In 1887 the Missouri Pacific built its line from Fort Smith up the Arkansas valley as far as Wagoner, and two years later extended the road on to Coffeyville, Kansas. This road was formerly called the Kansas and Arkansas Valley, and for the past decade has been the St. Louis, Iron Mountain and Southern. About 1902 was the time of the building of the next railroad line, and with the opening of the century began the great advance in all departments of affairs in Muskogee and vicinity. The Ozark and Cherokee Central (originally the Muskogee & Western), from Okmulgee into Arkansas, was the old name by which the present branch of the Frisco is known. Within recent years two other important lines have contributed to the progress of this section—the Midland Valley, and the Missouri, Oklahoma and Gulf.

City of Muskogee.

Muskogee, the second city in the state of Oklahoma, originated as a commercial center in the building of the M., K. & T. Railroad in 1871. But the proximity of Fort Gibson and the Union agency, the latter at Fern Hill only three miles from this city, gives Muskogee historical associations that go back to the very beginning of the history of Indian Territory and Oklahoma.

Throughout the official existence of the Dawes Commission its headquarters and offices were in Muskogee. The business of this, the greatest probate court in the world, was one of the factors which conferred distinction on this city. Muskogee is also noted as the site of the first United States court in Oklahoma. A court of minor jurisdiction was established here consequent to the act of March 1, 1889, and was the first federal court in the territory and the only court of resort for the first settlers of Oklahoma. At Muskogee, also, the convention assembled in 1905 to draft the constitution of the proposed "State of Sequoyah." The first governor of the new state comes from Muskogee, and many other facts might be mentioned to show the close connection of Muskogee with the history of Oklahoma in general.

At the building of the railroad in 1871, Muskogee station was located at a point about a mile north of the present location. The uneven character of the ground caused its subsequent removal. A little frame house, erected in the fall of 1871 by J. S. Atkinson and A. W. Robb, general merchants, was the first of a great succession of business structures which in later years have risen many stories in height and in solid brick and stone blocks that shut in long streets. "The Red Front" store of Joshua Ross was also one of the pioneer business enterprises. One of the first residents of Muskogee was Major John A. Foreman. He imported by the railway and erected a windmill, connecting the power to grinding machinery. Some days the grist was ground, but many days not, for the wind blew when it listed. Custom increased and became too impatient to wait both for the slow grinding and the fickleness of the wind, so the Major brought in a steam grist mill and cotton gin, said to be the first of their kind in the Indian Territory. Incredible though the story seems, it is stated that cotton was transported from Paul's Valley to be ginned at this mill.

On the townsite which had been occupied by the settlers, but to which no legal title could be obtained under the laws governing Indian lands, a population of several thousand people had located by the close of the century. The Curtis act of 1898 made provisions for the incorporation of townsites and the regular sale of town lots in Indian Territory. Before that time no municipal government in the ordinary sense of the term existed. The first set of city officials, elected in 1898, were: P. J. Byrne, mayor; W. R. Shackleford, recorder; J. G. Lieber, attorney; George H. Williams, treasurer; P. N. Blackstone, W. S. Harsha, A. W. Robb, F. B. Seavers, C. W. Turner, councilmen. The city government soon afterward set about to organize a fire department, establish sanitary and police regulations, and provide for public improvement in keeping with the commercial progress of the town.

The progress of Muskogee to its present municipal status has occurred largely during the present decade. With a population of about 4,500, and one railroad, Muskogee at the beginning of the century was a prosperous town and well advanced considering its opportunities, but with few points of ex-

cellence as a municipal organism. Schools and churches had been established soon after the founding of the town, the Presbyterians and Methodists having organized in the seventies, and the Catholics having built their first church in 1890. Several colleges had been built, so that Muskogee was better known as an educational center than as a business city. The first newspaper had been published in 1875, the first national bank in the entire Territory had been established at this point in August, 1890 (R. L. Owen was president), and the bar and courts and other institutions had made the town important throughout eastern Indian Territory.

Since the beginning of the century, however, Muskogee had advanced to be a city of about fifteen thousand inhabitants, with several miles of brick-paved streets, with water, electric light and sewerage systems, with a paid fire department, street railways, and modern schools and buildings. It is said that in the two years before 1908 Muskogee spent a million dollars for municipal buildings. Municipal improvement, rapid as it has been, has hardly kept pace with the commercial development. For Muskogee has become a wholesale and retail mercantile city, is one of the chief railroad centers of the state, and has its sources of growth and permanent greatness in the rich mining and oil regions and the fruitful agricultural areas that surround the city.

The greatest factor in this growth has, no doubt, been the building of railroads. In 1900 the M., K. & T. was the only line connecting this city with the outer world. At the present time the Midland Valley connects Muskogee with other towns along the Arkansas valley, and its railway shops at this point are an institution that supports a considerable population. The Missouri, Oklahoma and Gulf operates trains through Muskogee, though as a link in an important railroad system this line is not yet complete. The Frisco also has a branch reaching Muskogee. These roads give transportation facilities in every direction. Recently there was held a water-way celebration at Muskogee, presaging the improvement of the Arkansas river as a navigable highway, and it is also proposed to develop by means of a dam sufficient water power at this point to give Muskogee enviable prominence as a manufacturing center.

Murray County.

Murray county is noted for its scenic attractions, the Platt National Park, and the beauties of the Arbuckle mountains and the Washita valley. The mineral resources of the county have been exploited to some extent, there being asphalt mines at Gilsonite.

The building of the main line of the Santa Fe in 1887 brought the attractions and resources of this region within reach of the world, and soon afterward the town of Davis was started near the railroad. For some years visitors to the Sulphur Springs traveled from Davis by highroad to that resort, until both the Santa Fe and the Frisco extended short spurs to reach Sulphur. Since the establishment of the national park and the building of the railroads, Sulphur has become a prosperous town, with trade and industrial resources in addition to its advantages as one of the best watering places of the southwest.

Nowata County.

Nowata county comprises an area of about sixteen congressional townships about the headwaters of the Verdigris river. The county lies in the oil and gas territory of the Mid-Continent field, and the development work carried on by several companies

and individuals has returned some gratifying rewards. The greatest resource of the county, however, consists in its rich agricultural lands, and the large crops of corn and wheat.

During the past twenty years the country comprised in this county has been subject to a general improvement in civilization and industrial advancement. The Missouri Pacific Railway (Iron Mountain) was constructed up the valley of the Verdigris in 1889. Railroad transportation for this region at once acted as a spur of progress, and both the citizen population and the white non-citizens proceeded with the improvement of the country and the building up of town communities. Nowata soon became the chief settlement between Claremore and the Kansas line, and has since retained that distinction in the county of which it is the capital. Nowata had a population of 2,223 at the statehood census. A rich agricultural area and the oil and gas industry contribute to its permanent welfare and growth. It is the commercial center for the county and also the seat of about a quarter of the county's population.

About 1901 a branch of the M., K. & T. was extended from Coffeyville to Bartlesville, across the northwest corner of what is Nowata county. On this railroad is the little town of Wann, with a population of 201, near the west line of the county. Lenapah, second in size in the county, has a population of 331, and Delaware a population of 108. The population of the entire county in 1907 was 10,453.

Okfuskee County.

Okfuskee county lies on the western line of the old Creek Nation. Up to the beginning of the present decade its territory was entirely without railroad, and its settlements were little communities about the missions or the one or two postoffices. In 1900 the Frisco Railroad passed through the southeast corner of the present county, and at once gave an impetus to the village of Weleetka, near the old Indian town of Alabama. In recent years the Fort Smith and Western Railroad has connected with the Frisco at Weleetka, increasing the commercial and shipping advantages of that place, and has continued on through the county in the direction of Guthrie. In this way Okemah became a railroad station, and was chosen the county seat of the new county.

The population of the principal towns of the county at the census of 1907 was: Okemah, 1,027; Weleetka, 1,020; Boley, 824; Paden, 253.

Boley is one of the interesting communities known as "colored towns," populated entirely by negroes, where the presence of white men is not desired. Other towns of the southwest long ago established the rule that the colored people should be excluded, and Boley is an example of the reversal of the rule. When the Fort Smith and Western Railway was being constructed through this region in 1903, the site of the new negro town was established, and named after the man who built that section of the railroad. Colored people run the town, and it is one of the examples of self-government and independent town existence which have received the attention of students of the negro problem in its relation to the nation at large. Boley in 1908 had two banks, two cotton gins, a newspaper, a hotel, and the Creek-Seminole College and Agricultural Institute.

Okmulgee County.

Okmulgee county is at the heart of the old Creek Nation. Here were for years the council grounds of the tribe, and only during the present century have railroads and

white immigration produced noteworthy changes in the life and customs of town and country. At the recent census Okmulgee county had a population of 14,362. A considerable part of the county is hill region, formerly the favorite resort of outlaws. The principal farm products are corn and cotton, but this county is within the coal and oil districts of the state and the output of coal and oil from Okmulgee county is the county's largest single resource.

Okmulgee's relation with the political development of the old Indian Territory has been described in other chapters. As capital of the Creek Nation, it was the scene of many of the important events which form the annals of the nation. Though the Creek councils met in this vicinity after the war, it was in 1869 that the council house was built at Okmulgee, and in it for some years assembled the inter-tribal councils which drew up the "Okmulgee constitution," the first practical plan for the government of the Indian Territory. The first council house, it is said, was a double log structure, two stories, with six rooms for business purposes, and with two stone chimneys with fireplaces on each floor. The brick and stone capitol in which the last council of the Creeks met before statehood is now the principal public building in Okmulgee.

The Severs block, recently completed, is the finest business structure in Okmulgee, and is a monument to the merchant pioneer of this vicinity. A portion of the walls of the new Severs block was built in 1878, forming part of the first two-story stone building in town. Captain F. B. Severs, the builder of both these blocks, established a store about three miles northwest of the present site of Okmulgee in 1868. This spot (called Shieldsville) was the central point and trading center until after the removal of the capitol building, and Captain Severs and Columbus Belcher conducted large stores there for several years. The first cotton gin and mill was established at Okmulgee in 1880, by Captain Severs.

The building of the Frisco Railroad in 1900 has made a new city of Okmulgee. The census of that year showed less than two hundred white inhabitants at Okmulgee. The population according to the statehood census is 2,322. There were over fifty retail stores, and the business of this town has been increased many times during the present decade as a result of the building of railroads and the development of the natural resources in the vicinity. A public school building that cost twenty thousand dollars is an evidence of the interest of the people in education.

About two years after the construction of the Frisco Railroad, the Okmulgee and Cherokee Central was built, between Okmulgee and Muskogee and Fort Gibson. This is now a branch of the Frisco System. Recently the Missouri, Oklahoma and Gulf has put in operation its line through the southern part of Okmulgee county, Henryetta being a junction point between this road and the Frisco.

The principal towns of the county outside of the county seat are Henryetta, whose population in 1907 was 1,051; Beggs, 720; Morris, 387. Morris was platted at the time the railroad was built, and has attained considerable importance as a center for a rich agricultural community and for the oil and gas development which has recently taken place.

Osage County.

Osage county has the same area and limits as the Osage National reservation. The state constitution expressly stated that the nation should constitute a single county until all the lands were allotted, after

which the legislature might subdivide it. As it now stands, Osage county is the largest civil division in the state.

The history of the Osage tribe and the manner in which this reservation was assigned to them will be found in the general history. The Osages have been described as the richest people in the world. Only about two thousand citizens have a share in the great domain which is now being allotted. Each member of the tribe will have over six hundred acres of land; a trust fund of about nine million dollars is held for their benefit by the government; and the recent development of the oil and gas fields of the nation will add millions of dollars to the national and individual wealth of this people.

The population of this immense county by the statehood census was 15,332, the principal towns being—Pawhuska, 2,407; Fairfax, 470; Hominy, 468; Foraker, 237.

In 1903 not a railroad line was in operation within the limits of the Osage Nation. Pawhuska, the capital of the nation and the principal town, was credited with a population in 1900 of 116. Hominy and Gray Horse were almost the only other settlements worthy of mention.

During the past five years the foundations have been laid for a wonderful development of this country, which in a few years will rank among the most productive and most advanced portions of the state. The building of the M., K. & T. Railroad from Bartlesville across the nation in 1904 was the first important step in this direction. About the same time the branch of the Santa Fe from Newkirk to Pawnee gave the western side of the nation railroad facilities. Then within the last two or three years the Midland Valley has been built from Tulsa through the Osage country toward Arkansas City. Along the Arkansas valley a branch of the M., K. & T. runs from Osage junction to Tulsa. This rapid building of railroads, with the accompanying development of the natural resources of this country, has quite changed the conditions that formerly prevailed here.

Pawhuska, the capital city, has been specially affected by these new facilities and developments. The government first provided for a sale of town lots here in 1906, and the improvement of the town on a permanent basis has taken place since that time.

Ottawa County.

Ottawa county embraces within its area the little reservations which on the old maps of Indian Territory were designated with the names of the Quapaws, Peorias, Ottawas, Modocs, Shawnees and Wyandottes; also part of the former Seneca reservation is included in this county. The county contains some of the best agricultural lands of the state, and the timber areas have also been one of the important resources of the inhabitants for a number of years. In the allotment of lands to the Indian citizens of the tribes mentioned, no surplus remained, and only a small portion of the lands has been permitted to go into the general market.

The original line of the Frisco railroad enters Oklahoma through this county. About 1901 the Kansas City, Fort Scott and Memphis was built from the Kansas line to Miami, and thence to a junction with the Frisco at Afton. This road is the Kansas City branch of the Frisco.

Miami was the old government town of the Quapaw agency, where the federal court was located, and is the county seat and metropolis of the county. Quapaw and Wyandotte were the seats of Indian schools. Afton because of its railroad

facilities has gained much prominence as a trade center, and has a population of more than a thousand. Fairland and Peoria are other towns in the county.

Pawnee County.

Pawnee county was so named for the tribe of Indians who formerly owned seventeen whole and fractional townships south of the Arkansas river, situated largely in the present county. The Pawnees relinquished their title and agreed to allotment in November, 1892, and their surplus lands were opened at the same time with the Cherokee Strip opening of September, 1893 (Vol. I, p. 298). Pawnee county in the first division of the territory comprised in the Strip was called county "Q," and during the territorial period of Oklahoma was smaller by about two townships than at the present time. This county was settled on September 16, 1893, the opening day of the Strip, and the county seat town of Pawnee was laid out and populated that day.

Pawnee county by the 1907 census had a population of 17,112, the larger part of the inhabitants being distributed through the country, engaged in the profitable occupations of farming and stock raising, and also in the oil and gas fields, which have recently become sources of wealth in this county. The population of the principal towns of the county is as follows: Pawnee, 1,943; Cleveland, 1,441; Ralston, 587; Jennings, 380; Blackburn, 330; Skedee, 277; Keystone, 229; Maremec, 272.

At the present time the county has about two hundred miles of railroad lines, practically all of which has been built during the past ten years. In 1901 a branch of the Santa Fe ran from Guthrie through Stillwater to Pawnee, which was the terminus. Two years later this road had been built north to Ralston. With the exception of this short line, the railroad mileage of the county has been laid during the last five years, or since 1903. The construction of the M., K. & T. through Cleveland and Jennings occurred about 1904.

Pittsburg County.

Pittsburg county is in area one of the largest in the new state, having an area of 1,368 square miles. The region bounded by the county lines has many other points of distinction. At McAlester coal was first mined in commercial quantities, and this vicinity has ever since been the center of the immense coal industry of the Indian Territory. In the production of coal the mines of Pittsburg county led those of all other counties, the rank according to aggregate output for the year 1906 being in the following order: Pittsburg county, 1,186,575 tons; Coal county, 643,222 tons; and then come Latimer, Le Flore, Haskell, Okmulgee and Tulsa counties.

It is said that James J. McAlester, for whom the city of McAlester was named, was the first to take advantage on an extensive scale of the coal deposits underlying the Indian Territory. The year 1876 is usually assigned as the date for the beginning of this industry in Oklahoma, and the region about McAlester and Savanna was the first to be exploited. Mr. McAlester, who had citizenship rights in the Choctaw Nation by reason of his marriage ties, claimed a large amount of land in the vicinity of the recently constructed M. K. & T. railroad, and first opened his mines near Krebs, a spur of track leading from there to the main line. It was at the junction of the branch with the main line that the railroad station was established, and here the advent of a large number of miners and others quickly built up a town, which was

named McAlester. In 1880 McAlester was said to have a population of 500, and the coal mine was still practically the only business outside of the retail stores.

When the Choctaw Coal and Railway Company was organized during the late eighties as an industrial road for the development of the coal properties of the Choctaw Nation, the company was unable to negotiate satisfactory terms for the junction of their railroad with the M. K. & T. at McAlester, and as a result they began building their road eastward from a point about two miles south of the old town, and hence called the station and the town that quickly formed about it, South McAlester. By one of the mutations of civic growth, South McAlester has since become the center of population, and the postoffice authorities have recognized this by dropping the "South" from its name, while the old town is now given as North McAlester. General usage with respect to these names is not quite uniform.

In 1890 a United States court was established at South McAlester, and during the remaining years of tribal government the position of this city as the legal center for the Choctaw country increased the prominence of the city among other towns of eastern Indian Territory and also brought to that point a large representation of lawyers, so that many of the ablest members of the present state bar were at one time attorneys at McAlester.

As county seat of the new county of Pittsburg, McAlester continues to be the official center of a rich industrial region. The population of the city in 1900 was about four thousand, and at the recent census of 1907 it was given as 8,142. The municipal improvements are in keeping with the position and dignity of the city, and the schools of McAlester and the county at large have been reorganized and brought to a high state of efficiency during the last few years.

The development of the coal industry and the county as a whole has kept close pace with the extension of the railroads. The original coal road, now the Choctaw, Oklahoma and Gulf line of the Rock Island System, was continued east from McAlester to the Arkansas line, west to Oklahoma City, and within the present decade the line from Haileyville southwest to Ardmore. The Fort Smith and Western crosses the northern half of the county. In addition to these steam roads, an electric line connects McAlester with the important coal towns of Haileyville and Hartshorne, in the eastern part of the county. Along the lines of these roads are numerous thriving and prosperous towns, and everywhere the mining industry contributes to the support of a large part of the population. The population of this county, according to the statehood census, was 37,677. Near the Canadian river are the towns of Canadian (one of the older settlements), Crowder, at the junction of the Fort Smith and Western with the M. K. & T.; Indianola, Garner and Quinton. Kiowa, in the south part of the county, is also a good business point.

Pontotoc County.

Pontotoc county occupies the northeast corner of the old Chicksaw district, the Canadian river forming the entire north boundary of the county. The population of the county by the last census is 23,057. The Sapulpa-Denison line of the Frisco Railroad was built through this region in 1900, and the important towns and the improved conditions of living and industry in the country districts date from that event. Two other railroads have since been constructed, and their junction at Ada, the

county seat of Pontotoc county, has made that town one of the advantageous commercial situations of the state.

Ada in less than ten years has constructed municipal improvements which many of the conservative towns of the east have secured only toward the end of their first century of existence. Ada has a system of waterworks, its streets and houses are lighted with electricity, and the public schools are modern and ably conducted. The cotton compress, gins, oil mill, flouring mill, ice factory, brick and tile works, not only increase the sum of business assets of the town, but contribute in many obvious ways to the general welfare and comfort of its citizens.

Though Pontotoc county is largely agricultural, it also has large quantities of raw material for the manufacture of brick and tile and cement. The Portland cement industry has recently been established, and promises to become one of the distinguishing features of the county's material resources.

The town of Roff, in the southern part of the county, on the Frisco Railroad, is a comparatively old town. A postoffice was established there in 1890, and Joseph T. Roff, the founder, had located there as a cattleman in 1883, his place gradually growing into a community center for that region. After the building of the railroad, population and business increased rapidly.

Pottawatomie County.

Pottawatomie county as a civil division was formerly county B, erected from part of the territory in the Iowa, Sac and Fox and Pottawatomie reservations, which were thrown open to settlement September 22, 1891. The circumstances of the opening and some of the difficulties attending the settlement of the new domain are described in chapter XXIII of this history.

The estimated population of Pottawatomie county in 1892 was 10,000, and the amount of assessable property was fixed at $314,665.78. The valuation in 1894 was $658,343, rising in 1899 to $1,784,488, and in 1907 to $4,776,069.

The population of the county according to the census of 1900 was divided among the civil and municipal divisions as follows:

Avoca township	2,321
Bales township	2,453
McLoud town	498
Brinton township	2,661
Burnett township	2,326
Burnett town	98
Davis township	2,165
Dent township	989
Keokuk Falls town	198
Earlsboro township	1,851
Eason township	2,278
Forest township	1,967
Moore township	1,952
Shawnee city	3,462
Tecumseh city	1,193
Pottawatomie county	26,412

The federal census of 1907 showed that this county had nearly doubled in population, the figures for that year being 43,272. In the meantime Shawnee had become the fourth city of the state in population (10,955), the population of the other principal towns of the county being: Tecumseh, 1,621; Wanette, 739; McLoud, 783; Asher, 465; Maud, 575; Earlsboro, 387; McComb, 207; Keokuk Falls, 169; Bellemont, 118.

Pottawatomie county is in many respects the most advanced county in the state. Others excel it in population, in wealth, in manufacturing and general commerce, and also in special lines of agriculture. The

noteworthy feature of this county is the character of permanent prosperity and evenness of development which mark its population. Though the county is new, its people have reached a degree of social solidarity that is usually found in much older communities. The temporary and superficial features of a society which is newly founded have given place to the more substantial modes of living, and permanent prosperity seems to be the lot of the great majority of the residents.

In production of cotton Pottawatomie county is one of the foremost in the state, the crop in 1907 being estimated at 64,000 bales. There are over fifty gins in the county. Corn and alfalfa are raised in large quantities on nearly all the best farms of the county, and while stock farming is not conducted on the large scale of more west counties, the aggregate value of horses, mules, hogs and cattle is very large.

Shawnee.

Shawnee, which is one of the principal cities of the state, took its name from the old Shawnee Town, which before the opening of the Pottawatomie country to settlement was a community center on the north fork of the Canadian. One of the original settlers of the Pottawatomie country, who came to the site of Shawnee in 1892, describes the situation as without improvement of any kind, so that the city really began during that year. By the following year a population of about two hundred lived about this point. The present mayor of Shawnee, Frank P. Stearns, came to Shawnee in November, 1894, and built the first store in the new town.

The permanent establishment of Shawnee as a commercial center resulted from the building of the line of the Choctaw, Oklahoma and Gulf Railroad. The first train reached Shawnee over this road on the 4th of July, 1895. The builders of this road had chosen to follow the valley of the north fork rather than cross the rolling country about Tecumseh, the county seat. This choice operated with the power of destiny to make a city of Shawnee while Tecumseh, only five miles away, was deprived of the opportunity to become the metropolis of the county.

During the remaining years of the century Shawnee made many steps of progress as the commercial center of a fine agricultural country, becoming a shipping point and a mill and cotton center. But its real advance to a first-class municipality occurred during the present century. In 1900 the population was about 3,500. In 1896-97 the enterprising citizens of Tecumseh had promoted a railroad line from the county seat to connection with the Choctaw road, and this short line was extended to Asher by 1903. At the latter date this line and the Choctaw, Oklahoma and Gulf were the only railroad facilities of the county.

The past five years have witnessed the greatest development of Shawnee. In 1903-04 the first paving of streets was done, and by 1908 seven miles of paved streets had been made. In 1904 the Santa Fe Railroad was built through Shawnee, and about two years later the branch of the M., K. & T. gave another connection with Oklahoma City and with southeastern Oklahoma. These railroads added transportation facilities that have without doubt been one of the most important factors in the growth of the city. Also the railroad shops of the Rock Island (Choctaw) and the Santa Fe are a local industry supporting a large number of people.

Since 1905 Shawnee has built a fine city hall, has equipped an efficient fire department, has extended the waterworks and

sewerage systems, and has practically become a new city from the municipal standpoint. The street railway and the electric line to Tecumseh also came within this time.

These are the principal features in the growth of Shawnee during the past fifteen years. It is estimated that Shawnee has about forty factories and fifteen jobbing houses, besides the numerous retail establistments and banks. It is impossible to measure the amount of capital and of personal energy and enterprise which have produced such a city within so short a time.

Tecumseh.

The history of Tecumseh begins with the opening of this reservation to settlement on September 22, 1891. The largest group of those engaged in the rush for lands in county B hurried to the townsite intended for the county seat. The lots were occupied and the town had a larger population the first day than it has had since. The features of the opening are described on other pages.

Tecumseh profited by its situation as county seat, but its lack of railroad facilities during the first five years proved a serious obstacle to progress, and eventually the railroads gave the commercial prestige of the county to Shawnee. Tecumseh possessed some exceedingly enterprising citizens at that time, and it was due to their efforts that what was known as the "Air Line" was built about 1897 from Tecumseh a distance of five miles to the Choctaw Railroad. This became a great spur to progress, and since the building of the Santa Fe through this point and the construction of the interurban electric line to Shawnee, Tecumseh regained much of the ground lost during its former isolation. Its $25,000 court house and $5,000 jail are the important public buildings besides the schools.

Pushmataha County.

Pushmataha county, with an area of more than 1,400 square miles, is largely of mountainous topography, and many thousands of acres are covered with forests. The population of the county according to the last census was 8,295. During the height of the lumber industry this region had a larger and a very prosperous population, and the towns along the Frisco Railroad were dependent to a large extent on those engaged in lumbering. It is said that the towns of this section have a larger per cent of the native Indian inhabitants than is generally true of Oklahoma towns, which are with few exceptions "white men's towns." The population of the principal towns of this county is: Antlers, the county seat, 854; Albion, 300; Tuskahoma, 200; Kosoma, 200.

Tuskahoma is the old captial of the Choctaw Nation. Situated at the base of a range of mountains and surrounded by some of the most rugged and picturesque country of Oklahoma, the site corresponds more with the ideals of a council ground for a wild, barbaric race than with the commercial needs of a central town. And Tuskahoma has always been such a place, a beautiful assembly ground for the elders of the race, but never a town for trade and institutions. The railroad was constructed near the old council house, and a station established here, but the village had little business activity except during the sessions of the council in the autumn, when the chiefs assembled from all sides, many of them coming on horseback and by wagon and others by train. The old log council house was still standing a few years ago, but the Choctaw capitol which served during the final days

of national existence was the finest of the Indian national capitols, having been erected at a cost of thirty thousand dollars.

Rogers County.

Rogers county had a population in 1907 of 15,485. It is one of the best farming counties composing the old Cherokee Nation, and it is also situated in the oil and gas district of the state. The resourceful and well developed country contributes to the growth and prosperity of the several thriving towns and villages in this county. The principal towns, with population, in 1907, were: Claremore, 2,064; Chelsea, 1,294; Collinsville, 1,075; Oolagah, 394; Inola, 324; Talala, 307; Catoosa, 303.

A large and probably the greatest factor in causing the development of this county has been the presence of railroads from an early period. At the beginning of the decade of the eighties the Frisco Railroad was constructed from Vinita to Tulsa. In 1889 the Missouri Pacific (Iron Mountain) was extended from Wagoner to Coffeyville. Both roads traverse the entire length of Rogers county, and their intersection at Claremore makes that the principal shipping point and the metropolis of the county. About 1900 the Bartlesville-Tulsa branch of the Santa Fe gave railroad facilities to Collinsville in the western edge of the county..

The county seat town of Claremore was originally founded on a site about three miles east of the battle ground where Chief Claremore was killed. This was on the stage route from the railroad terminus at Vinita to the southwest. The business of the settlement was done by a store and blacksmith shop and perhaps one or two professional men and mechanics. On the building of the railroad the settlement became deserted and its inhabitants moved their homes and shops to the railroad stations some miles distant. After this removal the new town was incorporated under the Cherokee laws, and in 1898 reincorporated.

Chelsea, the second town in the county, was surveyed and platted by the authorities of the Cherokee Nation in 1885. One of the national schools of the Cherokees was located here, and in former years, besides the general trade and business of such a center of an agricultural district, the largest single enterprise was a flouring mill. The development of the oil and gas fields of this vicinity was begun about ten years ago. These are among the oldest fields of the state, both as regards discovery and development. At the present time Chelsea has a large oil refinery and has benefited greatly in wealth and municipal improvement from the activities connected with this industry.

Collinsville has become a prosperous trading center and the home of several productive industries since the construction of the Santa Fe Railroad less than ten years ago.

Claremore, the county seat of Rogers county, is a brisk, substantial, up-to-date city of three thousand people, situated in northeastern Oklahoma, on the main lines of the St. Louis & San Francisco and the St. Louis, Iron Mountain & Southern railroads. The city is located in one of the most fertile valleys in Oklahoma, in which are raised wheat, oats, corn, cotton, cane, tobacco and potatoes. Small fruits also do well and the country has an abundance of good timber. Claremore is the natural and the railroad center of this productive section, and already is recognized as one of the best markets for hay, grain and all kinds of produce in the state. Several of the largest buyers in these lines from the adjoining states maintain offices here

throughout the year. The altitude of the place is 650 feet, which insures a delightful climate, the nights being always cool and refreshing. An abundance of good water underlies the whole town and can be reached at from 40 to 150 feet. A complete system of municipal waterworks and sewers is being installed; one of the best electric light plants in the state is in operation, and as the city lies in the new oil and gas fields formerly controlled by the Cherokee Nation, an abundance of gas is accessible for domestic heat and light, as well as for manufacturing purposes.

The now famous Radium water, combined with her other natural advantages, has made Claremore quite famous as a health resort. To accommodate the numerous visitors who take advantage of its healing and vitalizing propertles, a number of fine bath houses have been erected, including the following: The Claremore Radium Wells Bath House, a fine brick structure costing $25,000; Radium Water Company Bath House, a comfortable frame building; the Bungalow, a combined rooming and bathing house, built of cement block at a cost of $14,000, and the Mendenhall Bath House. Claremore has four first-class hotels and others which are comfortable, but less modern. It has seventy-five business houses, thirty-five of which conduct their transactions in substantial brick or stone buildings. Its three financial institutions are the First National Bank, with a capital of $50,000; Bank of Claremore and the Farmers' Bank and Trust Company, with similar capitals. The deposits of these institutions aggregate $250,000. Claremore numbers among its industries an up-to-date flour mill, a large grain elevator, a brick plant, a broom factory and bottling works. It also has five lumber yards. The educational facilities of the city comprise a graded school housed in an eight-room brick building costing $10,000, and an academy, also conducted in a fine brick building, the staffs of teachers being well appointed and the courses covering a full nine months. The Presbyterians, Methodists, Methodist Episcopal Church South, Baptists, Adventists and Christians have all houses of worship, while the press of the city is represented by the *Progress* (Democratic) and the *Messenger* (Republican), both weeklies. There are two public libraries, one under the auspices of the public school system and the other of the Ladies' Library Association.

Seminole County.

Seminole county comprises somewhat more than the area of the Seminole Nation as the boundaries existed previous to 1907. The old Seminole capitol building, where the councillors of the nation had assembled before the tribal ties were dissolved, became the first court house of the new county after statehood. The total population of the county in 1907 was something less than fifteen thousand, who are distributed generally over the county except in the three or four towns. Wewoka is the county seat and largest town, with 794 inhabitants at the last census. Konawa, the next largest village, 620 inhabitants, was founded in the southwest corner of the county in 1904 when the M., K. & T. Railroad was built through that part of the county. Sasakwa is a village of 237 population located on the Frisco Railroad in the southeast corner.

The building of the Choctaw, Oklahoma and Gulf Railroad through the county in 1895 first opened this country's resources to the world, and brought about the settlement of Wewoka a few years later with a white population. Industrially and commercially the county has not advanced apace

with many of the new counties of the old Indian Territory, but with the settlement of the Indian rights and gradual adjustment of conditions to the new era, the excellent natural resources of soil and mineral values will make Seminole one of the wealthy counties.

During the existence of the Seminole Nation probably the two most important institutions of the country were the two Indian missions, one at Sasakwa and the other at Mekusukey. About the capitol house at Wewoka at the beginning of the century the little village consisted of two stores, a hotel, cotton gin and corn mill, and doctor's office.

Sequoyah County.

Sequoyah county, which preserves the name which was often proposed for the entire state, is the southeastern corner of the old Cherokee Nation. This county is the seat of the great marble quarries of Oklahoma, Marble City being an outgrowth of that industry. Besides the rugged mountainous area of this county, in which are located the stone deposits, nearly half the county is rich river and bottom land, productive of all the crops of this section of Oklahoma.

The population of the county by the last census was 22,450. Sallisaw, the county seat, has a population of 2,300. It was founded in the late eighties, after the building of the Kansas and Arkansas Valley (the Iron Mountain) Railroad. About 1897 the Kansas City Southern made this a junction point, and after that its growth was rapid. It became a shipping point for the small fruit products of the adjacent country. With free schools, electric lights and other improvements, and its extensive business interests, this is one of the thriving towns in the eastern part of the state.

Muldrow, named in honor of a former governor of Mississippi, was established about twenty years ago, when the Iron Mountain Railroad was built through this section. The town has a population of 618 by the 1907 census. On the same line of railroad, in the west part of the county, is the town of Vian, with a population of 617. Redland is located on the banks of the Arkansas river, and before the days of railroads was a ginning and store center for a considerable district. Alfred Foyil started the enterprises which caused the growth of a town here. Better transportation facilities were brought to the village with the building of the railroad.

Tulsa County.

Tulsa county has perhaps the most irregular boundaries of any county created by the constitutional convention. Its area is so conformed as to embrace a considerable length of the Arkansas river, and besides containing portions of both the old Cherokee and Creek nations, it is bounded by the Osage country both on the west and north. The Arkansas valley is a noted agricultural area, and other parts of the county produce large crops of corn, wheat, cotton and fruits. However, the great resource of the county during the present decade, and the cause of the remarkable growth and development of city and country, has been oil. The Red Fork oil district was opened in 1901, and since then the region about Tulsa has become one great oil field. The history of the oil discoveries and the remarkable industrial results which have followed, as also mention of some of the chief personalities concerned in these events, are to be found on other pages.

The population of Tulsa county in 1907 was 21,693. Its taxable wealth of about

twelve millions exceeds that of any other county in the state considering the population. The population of the town of Tulsa in 1900 was 1,390. The special census just before statehood showed 7,580. It is claimed that the suburban districts, included in "Greater Tulsa," increase this number to over twelve thousand. The growth of this city is the most remarkable part of the history of the county, and indeed of the entire state. The environs of the city are those of the newly founded town, many of the streets are so new that the grass was not worn from the surface. But passing the border where city building is in progress, the central area shows a municipal development of which many cities both east and west and of undoubted age and maturity might well be proud. In 1908 several miles of the streets were paved either with brick or asphalt. The gas fields gave light and heat, and all the essential conveniences of city life could be found.

Modern Tulsa is a product of the twentieth century. Yet a town was here for nearly two decades preceding. As is true of a number of Oklahoma towns, the Tulsa of modern civilization is founded on or near the site of the old Indian settlement known in earlier history as Tulseytown. The Frisco Railroad brought white men and commercial development to this point in the valley of the Arkansas. H. C. and J. M. Hall established their store here while the railroad bridge was being built across the river. This was in 1882, and for some years Tulsa was nothing more than a frontier village. Gambling and boot-legging flourished, and some of the noted outlaw bands of the time made this a rendezvous. The establishment of a commissioners' court at Tulsa about 1890 helped to establish better order.

The first large flouring mill was erected here in 1895, and the town began to grow and reach some commercial importance about this time. Tulsa was incorporated in 1898, Col. Edward Calkins being the first mayor. Until about 1903 Tulsa had but the one railroad line. Its railroad facilities are now a large factor in promoting the rapid growth of city and its business. The Midland Valley is the line that reaches the famous Glenn Pool oil district. Both the M., K. & T. and the Santa Fe railroads pass through Tulsa. The Arkansas Valley & Western is a branch of the Frisco System, extending from Tulsa through Pawnee and Enid to the western part of the state.

Tulsa claims the honor of being the first municipality of Indian Territory to maintain a free public school (meaning of course a school for the benefit of white children of the non-citizen class). In recent years some handsome school buildings have been erected, and education holds a high place among the interests of this busy commercial center.

Besides the metropolis of Tulsa, other towns in this county are: Broken Arrow, 1,383 population; Jenks, 456; Red Fork, 397; Owasso, 379; Skiatook, 342. Broken Arrow was laid out as a town at the time of the construction of the M., K. & T. Railroad through the east part of the county, in 1903-04, and has grown rapidly.

Wagoner County.

A small portion of Wagoner county was originally in the Cherokee Nation, but most of the county is the northwest corner of the old Creek Nation. The Verdigris river crosses the county centrally, while on the south border is the river Arkansas. The territory of the county has therefore been tributary to and itself the scene of

many events in the early history of the five tribes.

The county has a population of 19,529. There is much diversity in the industries and products of the county. Agriculture, with the corn and cotton crops, is perhaps the best permanent resource, but the county also produces oil and other mineral wealth.

The principal towns are Wagoner, population (in 1907), 2,950; Coweta, 1,105; Porter, 448; Clarksville, 334; Red Bird, 140. The Iron Mountain and the M., K. & T., which forms a junction at Wagoner, are among the oldest railroads of the state. The Tulsa branch of the M., K. & T. gives railroad facilities to Coweta and Red Bird. Wagoner is the northern terminus of the new road, the Missouri, Oklahoma and Gulf. Coweta was a place of interest and importance during the early Indian Territory days. The Coweta Mission was one of the best known Indian schools.

The city of Wagoner is said to have originated with an order from a train dispatcher named Wagoner in directing that a switch be placed midway between Gibson Station and Lelietta. It was named "Wagoner's Switch," and so appeared for a time in the railroad time tables. When the Iron Mountain road was built, in the late eighties, this point became the junction, and rapidly grew in commercial importance from that time until Wagoner was the second city of the Creek Nation.

Washington County.

Washington county, which is forty miles long and ten miles wide, extends along the eastern side of the old Osage Nation, and contains the richest natural gas fields and some of the best oil wells in the state. During the territorial days this region produced the usual farm crops and sustained a large number of live stock, but during the present decade the steady pursuits of agriculture have been in large measure abandoned, and the entire district is given over to the development of the oil and gas deposits. Bartlesville is rapidly becoming a manufacturing center, with some large ore smelters, glass and brick works already located.

The population of the county according to the federal census of 1907 was 12,813. More than half of this was concentrated in the cities and villages of the county, these being as follows: Bartlesville, 4,215; Ramona, 873; Dewey, 748; Ochelata, 359; Copan, 305; Vera, 175.

Until the close of the last century there was no railroad in the Cherokee Nation west of the Iron Mountain line through Nowata and Claremore, nor in the entire Osage Nation. Except the scattered homes of the Cherokee citizens and a few ranchmen and traders who had their establishments at a few points, this region has scarcely begun to be civilized. Some of the pioneer features of Bartlesville are described on other pages (see index). This was the first real town community in what is now Washington county. Nearly forty years ago a store was established near this city on the Caney creek for trade with the Indians, and a grist mill run by water power on the east side of that stream was the first mill of the kind in this vicinity. This mill later became the property of Jacob H. Bartles. Bartles' Mill in time became Bartlesville, and the nucleus of population slowly expanded.

About 1899 the line of the Santa Fe Railroad was extended south from Kansas through the western border of the Cherokee Nation. The presence of great oil and gas deposits along this route was already known and preparations had been made to take advantage of these natural resources.

The regulations and restrictions of the interior department deterred the general development of the district until about 1903.

In the meantime the growth of Bartlesville proceeded at a remarkable pace after the advent of the railroad. By the census of 1900 the population was 698, and the greater portion of the site covered by the present city was then fields. Since that time Bartlesville has obtained another railroad, and is one of the principal gas and oil centers of the southwest. The entire valley in which the city is located promises to become a scene of manufacturing, provided the oil and gas continue unfailing, and already a large number of factories and plants of a varied industry are located in this vicinity. In the past five years Bartlesville has advanced in a remarkable degree as a municipality. The principal streets are paved with brick, and are well lighted. A system of waterworks is in operation, and a street railway was under construction at the date of this writing.

Roll of Members of the Oklahoma Bar Association.

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Garvin—G. A. Spaulding.

Guthrie—Henry E. Asp, John Adams, J. H. Burford, J. H. Cotteral, J. R. Cottingham, Fred W. Green, Geo. M. Green, S. S. Lawrence, O. T. Smith, C. H. Woods.

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Ponca City—W. L. Barnum.

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Shawnee—B. B. Blakeney, W. N. Maben, J. H. Maxey, Jr.

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Tahlequah—J. D. Cox, W. W. Hastings, David A. Kline, K. S. Murchison.

Tishomingo—Nick Wolf.

Tulsa—H. F. Aby, A. J. Biddison, C. W. Butterworth, Gray Carroll, Jas. B. Diggs, L. M. Poe, D. L. Sleeper, W. F. Tucker, C. S. Walker, C. J. Wrightsman.

Vinita—P. S. Davis, John S. Davenport, W. H. Kornegay, Samuel F. Parks, Seymour Riddle, C. B. Rogers, John B. Turner, D. H. Wilson.

Watonga—Seymour Foose, A. J. Lowrey.

Wagoner—C. E. Castle.

Weatherford—G. O. Davis.

Wewoka—H. H. Rogers.

Woodward—W. A. Briggs, D. P. Marum, Chas. Swindall, Chas. W. White.

THE BAR OF LINCOLN COUNTY is one of the ablest in Oklahoma. It is composed of twenty-eight attorneys, nineteen of whom are located in Chandler, viz.: Firms—Rittenhouse and Rittenhouse, Hoffman and Robertson, Owen and Neeley, Decker and Decker, and Wilson and Wilson; also, Emery A. Foster, S. A. Cordell, W. T. Willis, R. H. Galyen, W. L. Johnson, John J. Davis, Fred A. Wagoner and C. O. Lasher. At Stroud, H. M. Jarrett and W. G. Pardoe; Ira E. Billingslea, Wellston; Wilberforce Jones, Davenport; J. L. McKamy, Sparks; Sandlin and Wells, Prague; and Edgar N. Sweet, Meeker. Col. Roy V. Hoffman was a prominent candidate for United States senator before the Democratic primary in 1907. John Embry, United States attorney for the western district of Oklahoma, is also a member of the Lincoln county bar. S. A. Cordell was three times elected probate judge of the county and is at present a member of the state senate. Fred A. Wagoner is the present county judge and John J. Davis is the present county attorney. J. B. A. Robertson and Emery A. Foster have each served as county attorney. J. M. Sandlin was a member of the convention that wrote Oklahoma's constitution and is now private secretary to Governor Haskell.

Religious Denominations.

Religious teaching and the spread of church influence among the inhabitants of Indian Territory have been coincident with the history of the five tribes in their western homes. Work of missionaries began among the Indians long before they left their old homes, and some of the preachers and teachers of this race followed the tribes beyond the Mississippi. Perhaps the two most noted of these were Samuel Worcester and Evan Jones. The hardships and persecution which the former endured in behalf of his people merit a large place for his name in the history of Oklahoma. The work of Isaac McCoy, the Baptist missionary, has been referred to elsewhere. Among the missionaries who during the past century served the various tribes of Indian Territory, the following names were selected for mention in an article published a few years ago: Samuel Worcester, Evan Jones, John B. Jones, Ard Hoyt, William Potter, Rev. Berkrich, Cyrus Kingsbury, A. N. Chamberlan, Phineas Scruggs, Dr. John Hanna, T. M. Wrights, John Gambold, John Harrell, Willis F. Folsom, Francis M. Paine, William B. Austin, E. R. Shapard, John Page, Thomas W. Mitchell, J. Oscar Shanks, John C. Robinson, Thomas B. Ruble, Wilson L. McAlister, Thomas Bentholf, David B. Cumming, E. B. Duncan, T. K. B. McSpadden, John C. Powell, D. H. Carruthers, James Essex, Young Ewing, Samuel Chicote, James McHenry, John Sevier, J. F. Boot, C. S. Jones, George W. Adkins, N. M. Talbot, James Y. Brice, Isaac Sanders, P. W. Cosby, W. A. McIver, Peter Stidham, Jesse H. Walker, J. N. Moore, H. J. Brown, T. F. Brewer, M. L. Butler, A. C. Pickens, F. M. Moore.

The growth of organized religion among

the intruding white population of Indian Territory naturally was not rapid. The early schools among the whites were subscription schools, and likewise the first churches were an expression from a portion of the people recognizing the need of and providing the means of religious worship. The itinerant preacher was the source of the first religious instruction. The first record of religion in many of the towns and cities of Oklahoma is of some now forgotten preacher who spoke from a goods-box the first sermon in the town.

After the towns of Indian Territory were given a legal status, a more systematic extension of both schools and churches took place. The principal denominations had organized societies in all the larger centers, though often these were but "stations" and services held but once or twice a month. Some kind of church building would usually be found in every town, though it was often a "union" church and used in turn by the different denominations represented there.

On the Oklahoma side the 89'ers brought their religious life with them, as did all the later settlers at the other openings. The conditions attending the settlement of a new country were not favorable to the highest attainments of religious growth, but from the first Sunday after the original opening, public worship, at first in the open air, on the street or under the trees, was conducted and participated in by a large portion of the settlers. The Oklahoma pioneers as a whole had been accustomed to religious practices in their former homes, as they had been accustomed to the usages of law and to public schools, so that they were not a people who had to undergo a process of reform to accept the forms and institutions of Christianity among them.

However, the church was not established at once in the prosperous circumstances which characterized the institution in older communities. As the original homes were tents or the plainest sort of wooden houses, so the churches harmonized with the primitive conditions of the early Oklahoma. But as the frame shacks changed to comfortable dwellings of brick and stone, so the churches soon stood in evidence of the prosperity of the material life of the people and their liberality toward religion.

Some statistics for comparison are furnished in the reports of the governor of Oklahoma territory for the years 1896 and 1904, though it is hardly possible that the figures represent a reliable census of the churches.

Presbyterian:	1896.	1904.
Number of churches	44	.....
Number of buildings	24	50
Members	1,480	4,000
Ministers	27	53
Congregational:		
Number of churches	91	.....
Number of buildings	55	75
Members	2,222	2,700
Ministers	49	50
Methodist North:		
Number of churches	46	.....
Number of buildings	....	193
Members	5,405	18,580
Methodist South:		
Number of churches	90	.....
Number of buildings	25	90
Members	3,000	10,691
Christian:		
Number of churches	70	317
Number of buildings	12	123
Members	4,300	18,000
Baptist:		
Number of churches	190*	.....
Number of buildings	....	150

	1896.	1904.
Members	6,700*	16,000
Ministers	165*	500

* Eighty of these churches were colored churches, 3,500 of the total members were colored and 100 of the preachers.

Episcopal:		
Number of churches and missions	22	29
Number of buildings	7	18
Members	350	891
Ministers	9	13
Catholic:		
Number of churches	73*	109
Number of buildings	24	63
Members	10,000	20,000
Ministers	18	31

* Recorded as "stations visited."

The statistics for the various churches covering the entire new state, though incomplete in some cases, show a surprising strength among the denominations. The Methodist Episcopal church, in 1907, had 325 church organizations and 194 church buildings, and 19,117 members in Oklahoma territory, and 36 churches and 2,623 members on the Indian Territory side of the state. The Methodist Church South, whose conference covered the whole state, had 320 church buildings and about 40,000 members.

The Presbyterian church, in the Oklahoma synod, had when statehood was given, 338 congregations and 184 ministers, and 13,800 members. The United Presbyterian denomination was represented in this state by seven church organizations and a membership of 302.

The Baptist general convention of Oklahoma has jurisdiction over 900 congregations, white and Indian, with 550 church buildings, and a membership of 55,000.

The Christian denomination has 491 organizations and 259 churches, with a membership in the state of 39,000.

The Catholic church has 500 organizations in the state and 120 church buildings, besides the numerous parochial schools and higher institutions of education. Its adherents in the state are about 33,000.

The Protestant Episcopal church had in 1907, 35 organized missions and 24 stations, and a total number of communicants of 3,242.

The Congregational church in 1907 had 50 church organizations on the Oklahoma territory side of the state, and a total membership of 2,600.

The United Brethren had about 80 church organizations, with a membership of about 3,000.

At the admission of the state there were over a thousand Jews in the state, the largest group being at Oklahoma City, where they maintain a church.

GOVERNOR GILBERT W. DUKES, Talihina, Okla.—The name of Dukes is associated with the settlement of the Choctaw Nation from its earliest occupancy by the tribe, and one of its representatives has achieved the distinction of the governorship of the nation to which he belongs. The multifarious affairs of the Nation developed and brought out the men of strength, and among them was Joseph Dukes, the founder of the pioneer family, and the father of Gilbert W. Dukes, of this review.

Joseph Dukes and his family were of the first of the Choctaws to leave their Mississippi home in the early forties and establish new homes in the wild country recently treated for in the Red River country of the far west. He settled near Fort Towson and there became a man of prominence as a farmer and a minister of the Presbyterian church. Among his children were Gilbert W., Charles, and Josephine, who married Benjamin Woods and died in the Choctaw Nation. The father and mother both passed away near Fort Towson, where they are buried.

Gilbert W. Dukes attained his majority in the vicinity of Fort Towson and received a liberal education, joining the Confederate troops raised in the Choctaw Nation and in after years served his people in many civic positions. As sheriff and district judge his services marked him as a proper man for the safe and conservative conduct of the nation's affairs in the executive chair. He was a member of the Progressives, and in the deliberations looking toward final dissolution of tribal relations and the coming of statehood he showed his friendship for the movement and gave it his support. He was chosen governor and served two years. Since the advent of statehood he has espoused the principles of the Republican party. Governor Dukes was married to Miss Angelina Wade, a daughter of Governor Wade, who had also filled the gubernatorial chair. She died in 1893, the mother of Joseph A. and Henry Dukes, of Garvin, Oklahoma. For his second wife Governor Dukes married Mrs. Isabel Sexton, and their children are as follows: Minnie, Letta and Dee Dukes.

Joseph A. Dukes was born in the Wade neighborhood near Talihina, where his parents settled more than forty years ago, and on the farm his childhood and youth were passed. He was educated in Arkansas and Virginia colleges, having attended the famous school at Roanoke in the old Dominion. He remained on the farm until 1904, when he became connected with Townsend's wholesale grocery house in McAlester. About a year later he returned to Talihina and was soon appointed postmaster of the village. While he is giving his personal attention to the office he has farming and real estate interests of value, chiefly comprised in his allotments near Tuttle and Lindsay, Oklahoma. He is a Republican in politics and cast his first vote for president of the United States at the general election of 1908, with many other men who had passed their lives in the Indian country. On July 1, 1904, Mr. Dukes was married in Tishomingo to Miss Lillie, a daughter of G. M. Powers, and one in a family of six children. The children of Mr. and Mrs. Dukes are Theodore F. and Justine R. Dukes.

WILLIAM NICHOLS BARRY, manager and member of the New State Hardware Company, of Paden, is also a leading Democrat and is now serving on the board of commissioners of Okfuskee county. He is a native of La Fayette county, Mississippi, born on the 9th of September, 1878, and is the son of Jesse R. and Ellen Elizabeth (Nichols) Barry. His family, on both paternal and maternal sides, is of Irish origin, but has been long established in the south, his father's ancestors having originally been Virginians and his mother's, Georgians.

The public schools of Mississippi furnished Mr. Barry with what education he was able to obtain, but his first business experience was as an employe in the store of J. D. Richards, at Okemah, Indian Territory, in the year 1902. Prior to that year he had spent some time in various sections of Mississippi and Texas. His business and general advancement was steady and substantial and finally he associated himself with Messrs. Mertes and Heatley in the or-

ganization of the New State Hardware Company, of which he was chosen active manager. For a number of years Mr. Barry had taken an active interest in county politics and, with the birth of the new state, his Democratic associates elected him to its board of commissioners. Like other good Oklahoma citizens he is a married man, his wife being Miss Eunice I. Busby, daughter of J. D. Busby, of Okemah. One child has been born to their union, Ellen Elizabeth Barry.

CHARLES SNOOK belongs to the group of influential and enterprising merchants who during the past few years have made Asher one of the principal retail centers of Pottawatomie county. The Asher Mercantile Company was organized here in 1906, and from that time until the present its interests have been constantly enlarging and advancing until it now occupies a creditable position among the business establishments in this part of the state. The president of the company is Charles Snook and the secretary and treasurer, N. W. Janes, both business men of well known reliability, and in their store room, located on the main street of Asher, they carry a full and complete line of everything to be found in a general mercantile establishment. During 1907, as an outside line, they shipped one hundred cars of posts and wood from Asher, and the president of the company has also served his city as a postmaster.

He was born in Kansas City, Missouri, in 1873, a son of G. W. and Lucy S. Snook. The mother died in 1898, but the father is still living and a resident of Fort Madison, Iowa. During the Civil war he served in the Federal army as a member of Company I, Thirtieth Iowa Infantry, and he now maintains pleasant relations with his old army comrades of the blue by his membership in the Grand Army of the Republic. His political affiliations are with the Republican party. At the mother's death she left three children, Charles, Ida Chapell, whose home is in Kansas City, Missouri, and E. R., a manufacturer of engines at Fort Madison, Iowa.

Charles Snook was reared on a pioneer farm in Western Iowa and in Ness county, Kansas, there laying the foundation for his subsequent successful business career, and during the first eight years of his business life he was a telegraph operator for railroads in different places. In 1904 he was united in marriage to Lillian Blanche Hull, who was born in Quincy, Illinois, a daughter of James and Mary M. Hull, and she was a successful and popular teacher before her marriage. Mr. Snook is a member of the Methodist Episcopal church, and is a Republican politically, an active worker in local political ranks, and he has served his party as a delegate to conventions. He is frank and genial in his manner, and is one of Asher's prominent and popular citizens.

REV. WESLEY F. SWIFT, for many years an efficient laborer in the cause of Christianity in the southwest, is a local minister in the Methodist Episcopal church, South, and preaches once a month at Oak Grove church, which was built in 1904. This congregation has a membership now of one hundred and ten, with an enrollment of eighty in the Sunday-school. Rev. Swift is a pleasant and forcible speaker, earnest in the presentation of the truth and his efforts have been amply blessed.

He was born near Columbia in Boone county, Missouri, December 20, 1846, a son of Henry, who was born in Maryland, and a grandson of a Revolutionary and Indian war soldier and who lived to the remarkable age of one hundred and one years. He was of English descent. Henry Swift died at the age of sixty-three, leaving a widow, Asenath (Selby) Swift, a native of Bourbon county, Kentucky, and five children, four sons and a daughter, and two of the sons, Wesley F. and Milton E., were Civil war soldiers. Milton served in the Eleventh Iowa Infantry, and was held as a prisoner at Andersonville, his death occurring there.

Rev. Swift spent the early years of his life in his native state of Missouri, and in August of 1862, at the call of Lincoln for

three hundred thousand more men, he enlisted in Company E, Third Cavalry, and served for three years, principally in General Sherman's army. He was first under the command of General Steele in the taking of Little Rock, Arkansas, and later under the gallant cavalry leader, General Wilson, fighting in Alabama, Mississippi and Georgia. At Gun Town, Mississippi, he was shot through the leg just above the knee, and was in a hospital at Memphis, Tennessee, for five months, and he was honorably discharged at Davenport, Iowa, in June, 1865, his record as a soldier being one of which he may well feel proud. He was the youngest as well as the smallest man in his regiment, familiarly known as the "baby of the regiment," and he served for a time as bugler in the regimental band.

In 1889 Rev. Swift left Texas for the Chickasha Nation in Indian Territory, and in 1900 he located on his present homestead in Moore township. He bought improved land at twelve dollars and a half an acre, and in the meantime he has placed the land under an excellent state of cultivation, has planted a good orchard and has made the farm one of the valuable ones of the township. His land is well watered and very fertile. Rev. Swift is a member of the Masonic order, being a charter member of Adel Lodge, from which he transferred his membership to Wanette Lodge, and he is a stanch supporter of Prohibition principles.

He was first married in Missouri to Lizzie Dilton, who was born in Virginia and died in Missouri, leaving three daughters, Sarah T. Wilmuth, Amanda Belle and one deceased. In Cooke county, Texas, in 1867, Rev. Swift married Lucretia Gabriel, who was born in Arkansas, but reared and educated in Texas, a daughter of William and Emily (Hargrave) Gabriel. The mother was born in Alabama, and is a cousin of Bishop Hargrave, a prominent Methodist divine. She is now living in Texas at the advanced age of ninety-two years, but her husband is deceased. The four children of this union are Cora M., Theodore J., Agnes L. and Susan W.

Joseph St. Clair, M. D. The distinction of being amongst the first registered practicing physicians of Oklahoma belongs to Dr. Joseph St. Clair, of Romulus. He became a resident of Oklahoma in 1891, and of Romulus in 1907, but many years previous to this time, on the 26th of August, 1868, he had graduated from a medical college at Cincinnati, Ohio, and practiced first in Carroll county, Missouri. Leaving that state in 1891 he moved to Montgomery county, Kansas, and a short time afterward came to Oklahoma, living first in Moral, and from there he came to Romulus in 1907, and has since been one of the leading physicians and surgeons of this place.

Dr. St. Clair was born in New Jersey May 21, 1845, a son of Isaac and Eveline (Brown) Countryman. When a small boy he was adopted by the St. Clair family, and has ever since retained their name. He is a member of an old American family who trace their ancestry to the French and to patriots of the Revolutionary war. When the Civil war came on Dr. St. Clair, then a lad of eighteen, responded to the call of his country and went to the front as a member of the One Hundred and Forty-fifth Pennsylvania Infantry, Company F, his military career covering three years of faithful and valiant service. After a time he was made a member of Chapin's Battery of New Jersey, and served with that command until his final discharge. At the battle of Hatcher's Run he was quite severely wounded.

In Carroll county, Missouri, in 1880, Dr. St. Clair married Minnie L. Neal, and their children are Florence, Jonas, Kate, Fanny, Alex. and Dewey. The Doctor is a member of a family of musicians, and is a natural band leader. He has played in some of the leading bands of the United States, and the St. Clair Band, of which he is now the leader, is very popular and much sought after for public gatherings. He plays efficiently on many instruments, including the violin, bass viol and the mandolin. He maintains pleasant relations with his comrades in arms by his membership in the

Grand Army of the Republic. In political matters he votes with the Republican party, and he is a member of the fraternal order of Modern Woodmen of America.

W. J. Carson is at the head of one of the leading industrial institutions of Tecumseh, the Tecumseh Hardware Company, and is also the proprietor of a large drug business. But perhaps he is best known as a Friend and Quaker. The society built a mission forty years ago near Shawnee and presented it to the government in return for a tract of land. Mr. Carson is an active and efficient worker for his church, and has done much to further its interests in the community.

He was born in Buchanan county, Iowa, May 16, 1864, to J. M. and Jane (Hoover) Carson, both of whom were born in Ohio. They were married in that state in 1847, and in 1878 moved to Kansas, where J. M. Carson became prominently identified with farming and stock raising interests. His wife died there in 1886, when forty-nine years of age, and three years afterward the husband came on to Indian Territory and settled in South McAlester. After two years in the stock business there he came to Pottawatomie county, Oklahoma, his present home, but he is now living retired after many years of active business life. He upholds the principles of the Republican party but is an independent voter, and has ever been an active factor for the good of the people, a man of high moral and religious character.

W. J. Carson also became a resident of Oklahoma in 1891, entering at once into the mercantile life of Tecumseh, and with the passing years his business has broadened and increased until at the present time he owns the most of the stock in the Tecumseh Hardware Company and also gives his personal supervision to his large drug business. He is a member of the Masonic lodge in Tecumseh.

In 1900 Mr. Carson married Miss Alice I. Crist, born in Ohio, and their three children are: Ethel, born July 21, 1901; Lewis W., born February 15, 1905; and Edith Fay, born October 1, 1907. One daughter, Laura, died in infancy.

Brother John Laracy, of the Sacred Heart Mission in Pottawatomie county, is one of the pioneer Christian workers of Oklahoma, and his life and achievements are worthy of a first place in the history of the state. It was on the 4th of December, 1879, that he came into the wilds of an Indian country to spread the gospel among the Red Men and the half civilized whites, outlaws and desperadoes who were then so numerous in the southwest, and from that early day to the present he has labored faithfully and earnestly in the building up of the community.

Brother Laracy was born in Kilkenny, Ireland, fifty-seven years ago, and he was but a child when brought by his parents to the United States, they locating first at Newark, New Jersey, where the little lad received his education in the public and parochial schools. As above stated he came to Oklahoma in 1879 and joined the brotherhood of the Sacred Heart Mission, January 28, 1883, over twenty-five years ago, and for some time thereafter he taught school. Some time later a rude building was erected for the purpose of educating the freedmen or negroes, who had no other means of obtaining an education, and this was the first school of its kind in Indian Territory. He at first boarded around among the negro families, living as best he could, but later he fitted up a room and obtained a negro cook. The school was located seven miles south of the Mission, and he spent four years of his life there, and the seed sown in that time has borne fruit a hundred fold in many cases. The negroes were of the Creek and Chickasaw blood. After the close of his four years in the negro school Brother Laracy returned to the Sacred Heart Mission.

During his early life in the southwest he had many interesting experiences, though it was fraught with many dangers and hardships. One of his co-workers in those days was Father Robot, the first postmaster of the Mission. He was a Frenchman and came to the Territory in 1876, and was a zealous and earnest worker among the people. His death occurred at McAlester when sixty years of age. Brother

Laracy also served many years as the postmaster of the Mission, first during President Hayes' administration, and he is known far and wide as the Indian's friend and counselor.

The school for Indian girls connected with the Mission is under the charge of the Sisters and has done much good work. It now numbers seventy-five pupils, including many white girls, the daughters of the cattlemen and many who have found a safe refuge here are now the mothers of some of the leading families of the state. The school for boys has an attendance of eighty, and is also doing an excellent work. The labors of "Brother John," as he is lovingly known, cannot be told in detail, for the good he has accomplished cannot be summed up in mere words, but the seed which he has sown has brought forth rich fruit. His path has been ever upward, both in a spiritual and temporal sense, one of nature's noblemen. But all his achievements are the result of patient effort and the outcome of an earnest Christian life.

Dr. J. E. Cullum, one of the most successful physicians and surgeons of Earlsboro, has practiced here since May of 1901. He is a graduate of the Gate City Medical College of Texas, and since then he has had many years of successful practice in Missouri, Indian Territory and Oklahoma.

He is a native son, however, of the Hoosier state, born near Lafayette, in Tippecanoe county, Indiana, in 1859, a member of one of its pioneer families, Jeremiah and Abigail (Sleeth) Cullum. The parents both died when their son was young, he having been but eight at the time of his father's death, and he was reared by an uncle, receiving the greater part of his education by studying at home. Leaving Indiana he went to Mercer county, Illinois, residing for three years near North Henderson. From there he went to Coin, Page county, Iowa, where he worked at the harness maker's trade for some time, he having learned the trade while living in Alexis, and from there he went to Clearmont, Nodaway county, Missouri. It was there that Dr. Cullum married Velma Freeman, a daughter of Dr. J. D. Freeman, a prominent physician of Tecumseh. They have had the following children: Blanche, one of the successful teachers in Pottawatomie county; Vera, who is sixteen years of age; Lora, who died at the age of six; Charlie, also deceased; and Clifford E., a little lad of five years. The Doctor is a Democrat politically, and the family are members of the Methodist Episcopal church, in which he is an earnest and active member and at the present time the superintendent of his Sunday-school.

Mary Bourbonnais. The history of the removal of the Pottawatomie tribe of Indians to Oklahoma in 1872 involves the life history of one of the most interesting women of the state. Of the Indians removed in that year there were four families, numbering twenty-eight persons, who settled on the South Canadian river. There was not a Christian person among them but the idea of education was strong enough among them so that a house was erected from lumber hauled from Kansas and efforts made to begin a school for the children of the community. The first teacher, however, was a renegade white man and horse thief who left in the night, the second was a Catholic old maid and the third a Mormon preacher. The Quaker system of Indian control, which at that time had been made effective during the administration of President Grant, resulted in a large number of Quaker men of thorough capacity, as a rule, and of sterling honesty, being located among the different Indian tribes of Oklahoma, and it was through one of this class that the first real teacher was obtained. Through the influence of the Quakers this little Indian community organized its first Sunday-school and for its first superintendent, the Indian agent selected Mary Bourbonnais, who at first declined to serve because she deemed herself unfit for the work but was later prevailed upon and from 1873 until 1900 continued as superintendent of this Sunday-school in what is now Pottawatomie county.

The introduction of Christianity among these Indians is one of the facts of the history of the Pottawatomie tribe. It is related that in 1877 a Friend missionary, by

the name of Franklin Elliot, who was located at Shawneetown, visited the community twice a month, travelling twenty-five miles in order to preach to them and as a result of this influence, Mary Bourbonnais and her husband, Antoine Bourbonnais, were converted and the former has continued from that time to this to be one of the strongest supporters of the Christian religion and its practice.

Mary Bourbonnais is now sixty-eight years of age and is a very intelligent woman, considering her early opportunities, and in every sense is a true Christian. Her father was a Frenchman and her mother a Pottawatomie. She, herself, was born at New Orleans, April 1, 1840, while her parents were on a visit in that city and some time later the family moved to Council Bluffs, Iowa, and when she was seven years of age the tribe of Indians, among whom they made their home, went from Iowa to Kansas, where she was reared to womanhood. In the old St. Mary's school in Kansas, one of the best known of the Indian schools of the Southwest, she received her education, and at the age of sixteen was married. Her first husband was Lewis J. Harris, a Kentuckian, who died shortly after a trip to Pike's Peak in 1859. In 1862 his widow married Antoine Bourbonnais, of French and Indian blood, and as already mentioned, was converted to Christianity at the same time that his wife was and until his death, at the age of sixty-seven, was one of the upright and influential residents of Pottawatomie county, his death occurring on the mission farm there. By occupation he was a cattle man and remained a member of the Quaker church in this vicinity for twelve years. Five children were born to Mr. and Mrs. Bourbonnais: Aaron F., whose home is in Tecumseh; John A., of Tecumseh; Levi A., also of Tecumseh; Ozetta, the wife of W. F. Jenks, a teacher in the government school in Mexico, and Amelia Hudson, who is deceased.

Though she has been actively connected with Sunday-school affairs and church duties, and resigned her position as superintendent in 1900, Mary Bourbonnais is still an active woman for one of her years and is consistent with the practice of her church through the early teaching of the Quaker missionary under whose influence she was converted. The honor of having established the first Sunday-school in this part of the state is one that entitles her to more than average distinction for a woman. She has also extended her efforts in other directions in church and charitable work and is an active worker and member of the Women's Christian Temperance Union. She was one of the most enthusiastic workers in promoting the state wide prohibition movement in 1907.

W. G. Price, who bears an honorable record for brave service in the cause of the southland during the Civil war, is at this date one of the three commissioners of Pottawatomie county. Mr. Price entered the Confederate army in 1860 and served during the war fought under Generals Early, Ewell and Wharton, and was a member of the Fifty-first Virginia Infantry. He was three times wounded during the struggle, at New Market, Fayetteville and Winchester, and was taken prisoner at Waynesboro by Gen. Phil Sheridan's army, made his escape at Strasburg, Virginia, later was recaptured by Stoneman and for a time held as a Confederate officer at Johnson's Island. From a private he had been promoted for meritorious service to sergeant major, later elected to first lieutenant, Company D, to captain, and was finally discharged as brevet lieutenant colonel of his regiment. After the war he taught school for several years in his native state of Virginia and then removed to Texas, where he engaged in farming and teaching school. In 1873, Mr. Price moved to Grayson county, Texas, in 1890 to the Chickasaw Nation in Indian Territory, where he leased and farmed Indian land until his removal to Oklahoma in 1898. He was elected county commissioner of Pottawatomie county in the fall of 1904 and re-elected in 1907. Since 1898 he has been prominently identified with the interests of the county.

He was born in the old Dominion state of Virginia, Patrick county, in 1843, a son of Bernard and Louisa (Ayres) Price, who were also natives of that commonwealth,

and the father was of Scotch and German descent. He was a well educated man, and in his day was one of the successful educators of Virginia, a man respected and honored by all who knew him. The three sons of Mr. and Mrs. Price were W. G. and Dallas M., and one who died in infancy.

In March, 1867, when he had reached his twenty-fourth year, W. G. Price married Nancy Jane, a daughter of Don and Mary Weaver, all of whom were born in Pennsylvania, but moved to Virginia in early life. As a representative of the Democracy Mr. Price has served as a delegate to party conventions, and his party has further honored him by election to the office of county commissioner. He is a Royal Arch Mason and an Odd Fellow and a member of the Methodist Episcopal church. A man of pleasing personality and genial manner, he has won many friends in Tecumseh and vicinity, and as a county official he is firm in his convictions of the right.

L. T. Sammons, cashier of the Maud State Bank, is at the head of one of the most reliable financial institutions of Pottawatomie county. The bank was organized in November, 1903, by C. W. Miller and E. Riddle, and in 1905 the capital stock was purchased by its present officers, R. R. Henden, president; L. T. Sammons, cashier, and J. R. Smith, the assistant cashier.

The popular and well-known cashier of the Maud State Bank, L. T. Sammons, has been a resident of Pottawatomie county for six years, and was born in Hardeman county, Tennessee, October 5, 1865, a son of J. W. and Tennessee (Wilkes) Sammons, both now deceased. The father also had his nativity in Tennessee, and there the son was reared and educated and entered upon his subsequent successful business career. His first occupation was at farming, while later he was a clerk in a dry goods store for six years at Whiteville, and for two years was in the general mercantile business for himself. In 1901 he came to Shawnee, Oklahoma, and engaged in the real estate business, and he was one of the promoters of that town. From there he came to Maud in 1905 and purchased an interest in the Maud State Bank, which, as above stated, is one of Oklahoma's reliable banking institutions. He is also a prominent worker in local politics, affiliating with the Democracy, and he has served his party as a delegate to conventions, as the treasurer of its central committee for three years and in many other positions. He is a popular member of the Knights of Pythias fraternity and also of the Woodmen of the World.

At the age of twenty-one, and before leaving his home state of Tennessee, Mr. Sammons was united in marriage to Della Hillgard, and their two children are Elma Alline and Flossie E. The eldest daughter is at present a student in Kid Key College, Texas. The family are members of the Cumberland Presbyterian church.

S. M. Ramsey, of Section 34, Brinton township, Pottawatomie county, secured his present homestead here September 22, 1891. With a team and wagon he left his old home in Missouri on August 4, 1891, where he had lived for forty-six years and started for Oklahoma, and on September 22, 1891, from Capshaw Field, nine miles distant from here, he made the race for the choice claims of Pottawatomie county and secured his present homestead, where he has resided most of the time since. He was five weeks in making the journey and was accompanied by his daughter Florence and niece Laura Tarbox. His sister, Mrs. Mary H. Tarbox, and three of his children remained in Missouri until October 16, 1891, when his sister came to Oklahoma and filed on a claim adjoining that of Mr. Ramsey, after which she returned to Missouri and remained there until the spring of 1894, at intervals making trips to Oklahoma to comply with the law in holding her claim. Her daughter's farm joins Mr. Ramsey's on the north. Here Mr. Ramsey has since lived and labored with the exception of the time spent in Tecumseh to afford his children better educational advantages, and he conducted a meat market during his residence there. Pottawatomie county is glad to claim him among her agriculturists and pioneer citizens.

He is a son of one of the early pioneers of northeastern Missouri, Silas Ramsey,

and was born in Lewis county, near Monticello, that state, December 5, 1845. The father was born in Kentucky of Scotch-Irish descent, and it was in 1830 that he established his home in Missouri. He received a deed of land there signed by President Martin Van Buren (which is still in the possession of S. M. Ramsey), and he died on his old homestead farm there at the advanced age of eighty-three years, both he and his wife having been earnest members of the Baptist church. She bore the maiden name of Henrietta Baker, and was also born in Kentucky, her death occurring at the age of seventy-six years. Their four children are: Silas M., James W., Mary H. Tarbox and Newton M., the last named a resident of Tecumseh.

S. M. Ramsey married in Lewis county, Missouri, Mary A. Barkelew, a daughter of Henry and Charlotte (Spencer) Barkelew, the former dying at the ripe old age of eighty-eight, and the latter at the age of sixty. Mrs. Ramsey is also deceased, dying on the 21st of February, 1884, at the age of thirty-nine, after becoming the mother of four children: Francis M., a railroad conductor and a resident of Shawnee; Archie B., the owner and proprietor of a gin mill in the Seminole Nation, near Earlsboro; Florence L., who is a teacher and also has a homestead of eighty acres near her father's farm; and Zetie, with her aunt in Brown, Pottawatomie county. Mr. Ramsey has proved an efficient public officer, having served two terms as a registrar of deeds, and in 1906 was a delegate to the Guthrie constitutional convention. He is a member of the Masonic order, Lodge No. 13 of Tecumseh, and of the Odd Fellows, Lodge No. 82 of Brown. His religious affiliations are with the Baptist church of Tecumseh.

WILLIAM B. TROUSDALE, who for many years was prominently before the people of Pottawatomie county as its sheriff and now one of the county's leading agriculturists, came to the Indian Territory with his parents when a boy in 1872, coming from Cooke county, Texas. He was born at Paris, in Lamar county, that state, September 27, 1858, a member of one of the pioneer families of the Lone Star state. His father, Allen Trousdale, was born in Madison county, Tennessee, but during his early life moved to Arkansas and later to Texas, and in 1872 came to Oklahoma. He died in Eason township, Pottawatomie county, at the age of seventy-three years, and was the first man buried in the Wanette cemetery. He was a prominent farmer and cattleman here, and was a Democrat politically. His wife, Mary Reed before her marriage, was an exceptionally well educated lady. She was born in Zanesville, Ohio, was a graduate of Zanesville Academy, and a lady of many high attainments. She died at the age of sixty-eight, a member of the Methodist Episcopal church, and left three children, one of whom, Alice Hamill, lives in the Choctaw country.

W. B. Trousdale spent his early life as a cowboy in the range in Indian Territory, and he was well educated under the able instructions of his mother. During six years she served as the postmistress at Oberlin, Choctaw county, and during much of that time her son served as her assistant. In 1874 he came to Pottawatomie county and located near Wanette, and he is now the owner of a valuable farm of five hundred and sixty acres in Eason township, near Trousdale, the land being especially adapted to the raising of cotton, corn and alfalfa, and in addition he is also quite extensively engaged in the raising of cattle and hogs.

At the Sacred Heart Mission in 1881, Mr. Trousdale was married by the Catholic priest to Mary Tupin, of French and Indian blood. She was well educated in the St. Mary's Mission school in Kansas. Their children are William, Alexander, Nickson, Augusta, Madeline, Kemp, Mattie Madeline, the latter a student in the convent at Purcell, Oklahoma. Mr. Trousdale is an active worker in the local ranks of the Democratic party, and as its representative he served in the office of sheriff in 1895 and 1896. In 1897 he was defeated for the office by only three votes, and he was again elected in 1899 and 1900, and served with credit and ability. He had many exciting experiences with outlaws and

desperate characters in those early days of the southwest, and one of his most noted captures was the Christian brothers, who were convicted and imprisoned. He is a member of the fraternal order of Odd Fellows, Lodge No. 24. He bears the true characteristics of the cattleman, jovial and charitable to all, and his friends are many in Pottawatomie county.

Ivy Tarter, one of the well-known soldier citizens of Moore township, was born in Pulaski county, Kentucky, in 1838, a son of Jacob and Polly (Weddle) Tarter. His paternal grandfather was born in Germany, and coming to this country served for seven years in the Revolutionary war. The father was born in Virginia, and the mother in Pulaski county, Kentucky, of Scotch-Irish and English ancestry. Of their family of nine children, four sons and five daughters, all grew to mature years and married, and one daughter is now ninety years of age. The father was a Whig and a slave owner in the ante-bellum days, but later became a Democrat, and he died in the faith of the Baptist church at the age of eighty-two years. His wife was fifty-three at the time of her death.

On his parents' old home farm in Kentucky, Ivy Tarter grew to manhood's estate, and that state was his home for forty-three years. On the 15th of October, 1861, at the call of Lincoln for three hundred thousand more men, he enlisted in Pulaski county, Kentucky, at Somerset, in Company D, Third Kentucky Infantry, and served under Captain John C. Bolan and Colonel Thomas Bromlet. His services were with the Army of the Cumberland in General Thomas' command, and he was first under fire at Shiloh, later taking part in the battles of Corinth, Iuka, Perryville, Murfreesboro, Chickamauga, where he served with General Thomas; Kenesaw Mountain, and in many others of the hard fought battles of the war. On the 21st of June, 1864, at the battle of Maryette, Georgia, he was wounded above the knee in the right leg, and was in the hospital at Nashville from that date until the following August. Receiving a thirty days' furlough he returned home, but in the following September joined his regiment at Nashville, Tennessee, and was honorably discharged from the service on the 15th of June, 1865, with a brave and gallant record as a soldier, and as the second sergeant of his regiment, a non-commissioned officer.

After a residence of forty-three years in his native state of Kentucky, Mr. Tarter moved to Texas, and after ten years in Collin county came to Chickasaw Nation in Indian Territory. In 1892 he became a resident of Pottawatomie county, Oklahoma, where he now owns a well improved farm of eighty acres located midway between Maud and Asher.

Before leaving his native state of Kentucky, when eighteen years of age, he married Emily Dunbar, who was born in Russell county, that state, and is of English descent, a daughter of Siller Brown Dunbar, who was born in Kentucky near Mammoth Cave. Three of his sons were Union soldiers of the Civil war—Lieutenant Reuben Dunbar, Hugh Mace and Willis, both now deceased. Eight children, six sons and two daughters, have been born to Mr. and Mrs. Tarter, namely: James W.; Hugh Mason; Sallie; Henry Harrison and Thomas Franklin, twins; Buthie Siller, George Wyat, who died at the age of twenty-five years; and Dan. Mr. Tarter is a stanch supporter of Republican principles, and during McKinley's administration he was for three years the postmaster of Siller, which office was named in honor of his daughter. He is a member of the Grand Army of the Republic, Avoca Post of Pottawatomie county.

John Whitehead, of the "Valley View Farm," two miles to the southwest of Shawnee, Pottawatomie county, Oklahoma, was born near Topeka, in Shawnee county, Kansas, in 1858. His parents were of French and Indian blood, and were among the first settlers in Kansas. He is the son of James Whitehead, the mother being of the Pottawatomie tribe of Indians. She was born in Michigan and lived for a time in Illinois, at Chicago; also for a time in Iowa, and from there her people went

to Kansas. The father died, aged forty-five years. For her second husband her mother married Lucius Gooner.

Mr. Whitehead was reared in Kansas and was taught to be industrious and honest. He received his schooling at St. Mary's Mission in Kansas. He received an allotment of two hundred and forty acres in the rich and fertile bottom land, and his wife received an allotment of one hundred and sixty acres. He was married in 1883 to Mary Wellfelt, who was born and educated at Topeka, and was a classmate of Hon. Charles Curtis, U. S. Senator from Kansas, who is a fast friend of the family. She is the daughter of Joseph Wellfelt, of French blood. Her mother was of French and Pottawatomie blood and now lives at Seattle, Washington. Mr. Whitehead lives in a two thousand dollar farm-house, surrounded by cement walks, a beautiful lawn, with everything that bespeaks civilization and refinement. The farm is a model one, and contains fine alfalfa meadows. His teams of draft horses are well worth five hundred dollars a team. The cattle and hogs are of the choicest grades. This farm contains four hundred and forty acres of choice land, which is well tilled and carefully cared for.

Mr. Whitehead and wife have the following children: Irene, married Ed Pecore; and Webster Whitehead, an engineer on the government industrial farm, who is a carpenter and was educated at Sacred Heart Catholic school at Lawrence, Kansas, finishing at Haskell Institute.

WILLIAM BEATTY. The name of William Beatty is becoming a familiar one in the legal circles of Pottawatomie county and especially of Wanette. He came to Oklahome five years ago, locating first in Lincoln county, and after a year there came to Pottawatomie county. Choosing the law as his life work, he prepared for the profession earnestly and thoroughly and was admitted to the bar January 3, 1905. In like manner with all others, Mr. Beatty started out to win for himself a name and place, and his success is placing him at the head of the Wanette bar.

He was born on a farm in Johnson county, Missouri, in 1882, a son of a farmer, Archibald Beatty, a member of an old Kentucky family, which is also the state of his birth, and with his wife, nee Mary Sever, also a member of an old family of the Blue Grass state, he resides in Pettis county, Missouri. Of their eight children, five sons and three daughters, the Doctor was the fourth born, and while attaining to years of maturity on the old Missouri farm, he enjoyed the benefits of an excellent educational training and became a successful teacher. He has represented his party, the Democratic, as a delegate to several conventions, and is a Mason and a Woodman. He is a member of the Baptist church.

DR. R. M. SHAW, a physician and surgeon practicing at McComb, is one of the well-known members of the medical profession of Pottawatomie county and is also the proprietor of the Pioneer Drug Store of McComb. He is a native son of Arkansas, born near Searcy, in White county, in 1874, and is also the son of a physician who died eleven years ago at the age of sixty-six years. He was born in Ohio and had a gallant record as a Union soldier in an Ohio regiment during the Civil war. The mother, Mahala (Mann) Shaw, born in Kentucky, is yet living and is now seventy-three years of age. They had nine children, three sons and six daughters.

Dr. Shaw received a good educational training in the high school of Sugar Loaf Springs, Arkansas, and while yet a boy in his teens he began the study of medicine under the able instructions of his father. Later he entered as a student in the A. I. Uni College of Little Rock and graduated with its class of 1899, and since then he has been engaged in the active practice of the profession, and since 1902 has been one of the leading physicians and surgeons of McComb and the proprietor of its Pioneer Drug Store, in which he carries a large line of drugs, medicines, toilet articles and everything to be found in a first-class drug store.

Dr. Shaw was married at Beebe, Arkansas, in 1897 to Ella Keel, who was born and reared in that state. Her father died many years ago, and her mother is Mrs. R. C.

Garner. The only child of Dr. and Mrs. Shaw is Lila, four years of age. The Doctor is a prominent Republican worker in Pottawatomie county, and is a member of the fraternal orders of Woodmen of the World, Masons and Odd Fellows. He is also a member of the State and County Medical societies, and was one of the organizers and promoters of the Pottawatomie Southern Medical Society. Both he and his wife are members of the Methodist Episcopal church.

F. S. Wray, proprietor of a cotton mill and a prominent cotton broker at Maud, is one of the most important business men of Pottawatomie county, an important factor in the cotton business. He came to the county in 1906 and opened his gin mill, which is well supplied with all the modern machinery known to the business, including a thirty-six power engine, and from the time the cotton is taken from the field until it reaches the consumer he has entire charge of the commodity. During the season of 1907 seventeen hundred bales of cotton were ginned and prepared at the Wray Gin, and in addition to this he also handled as a broker twenty thousand bales during the season.

F. S. Wray was born in Shelby, Cleveland county, North Carolina, in 1877, a son of a prominent planter, stock dealer and business man of that state, G. W. Wray, of Shelby. He has been prominent in the business life of that community for over thirty years, and is one of its best known men. His father, W. H. Wray, was one of the early settlers of that part of the state. G. W. Wray married Sarah Suttle, a member of another of North Carolina's well known families, and they became the parents of seven children, four sons and three daughters, among whom was F. S. Wray, who was reared to manhood's estate in Shelby and received a good education in its common and high schools and in the University of North Carolina. For a time after leaving school he assisted his father in business, and finally came to Maud, Oklahoma, to take part in its business life, but he yet spends the most of his summers at his old home in North Carolina with his parents. His political affiliations are with the Democratic party, and fraternally he is a member of the Independent Order of Odd Fellows. He has made many friends in his new home in Oklahoma, his genial manner and straightforward business dealings winning him the confidence of all.

Professor N. M. Sowder, superintendent of the McLoud public schools, is one of the best known educators in Pottawatomie county, keenly alive to the educational interests of the people, and has been instrumental in organizing the High School and in advancing the cause of the McLoud schools in general along all lines. His identification with school work as teacher and superintendent covers a period of fifteen years, and in that time he has taught in Missouri, Kansas and Oklahoma. He is author and inventor of a book, pending publication, entitled "Concrete Arithmetic," a new method of science in mathematics, working all problems embracing either subtraction or division, or including square and cube root, solely by addition. The manuscript contains about 200 pages print.

He was born near Maryville, Nodaway county, Missouri, March 22, 1874, a son of Abram Sowder, one of the early settlers and leading business men of that city. The latter was born at Brownstown, Indiana, in 1842, and during the Civil war he served as a brave and loyal soldier. He married Anna Walker, who was born in Lyons, New York, and in 1866 they moved to Pickering, Missouri, where Mr. Sowder was a successful laborer until his death at the age of sixty-six years, dying on the 20th of February, 1908. He was a member and deacon of the Christian church, and a loyal Republican, politically.

Professor N. M. Sowder passed from the Methodist Seminary of Maryville to the Afton College, Afton, Iowa; then to Stanberry Normal in Stanberry, Missouri; then took a business course in Kansas City, Missouri; and from there entered higher institutions of learning at Taunton, Massachusetts, and Washington, D. C., receiving the degree of A. B. from the Potomac University at Washington. He is also the holder of a life state certificate, granted solely upon

examination. After teaching for a number of years he entered the railroad service, first as a Pullman conductor for two years, and then for two years as a train auditor for the M., K. & T. Railway Company. The first school in which he taught in Oklahoma was in Lincoln county, of which he assumed charge in 1898, and later he was postmaster and in the mercantile business in that county. He also greatly improved the schools at Wellston, being superintendent. Since becoming identified with the little city of McLoud he has been thoroughly alive to her educational interests and has kept its school fully abreast of the rapid educational progress in the state, as evinced by its articulating with the State University at Norman.

In 1902, in Pottawatomie county, Professor Sowder was united in marriage to Vivian Wilson, who was educated in Coffeyville, Kansas. Her father, Thomas L. Wilson, died in Lincoln county, Oklahoma, with a splendid record as a Christian and a Union soldier during the Civil war. The children of this union are a daughter, Genevieve, deceased, and a son, Harold C., two years of age. Professor and Mrs. Sowder are members of the Christian church, and he is also a Mason, Odd Fellow and Woodman. Both are members of the O. E. S. at St. Louis, Missouri.

ISAAC N. BRADBURN, a farmer in Section 11, Earlsboro township, near the town of Maud, has been identified with the southwest for many years. He left Texas nineteen years ago for the Chickasaw Nation in Indian Territory, and that was his home until he came to Oklahoma eleven years ago. He was born in North Carolina September 11, 1837, a member of a family who had long resided in that state, his paternal grandfather having moved there from his native state of Virginia when a boy, and his wife was of English parentage. Isaac E., his son, was born and reared in North Carolina, and was there married to one of the state's native daughters, Ellen Starnes, and there they spent the remainder of their lives and died, the father at the age of seventy-five years. He was a prominent southern planter, a Democrat in his political affiliations and a member of the Baptist church. His children numbered nine, three sons and six daughters, of whom five are now living, a son and four daughters.

Isaac Bradburn, the only surviving son of the family, left home at the age of eighteen and for three years traveled over the south and west, working at different occupations, and finally returning home he enlisted for service in the Civil war as a member of the Thirty-second North Carolina Volunteer Infantry, under Colonel Brabble and General Early, and took part in the battle of Spottsylvania Court House. In the engagement of Cedar Creek, while with a Virginia train, he was made a prisoner of war and held at Point Lookout by the Federals for some time, and when finally discharged the war had closed and he returned home to take up again the work of the farm. In 1873 he went to Grayson county, Texas, where he was engaged in farming and the cattle business until going to St. Jo, that state, and in 1880 he went to the Chickasaw Nation in Indian Territory, and from there to the Choctaw Nation in 1887. From the Indian Territory he came to Pottawatomie county, Oklahoma, in 1896, and purchased one hundred and sixty acres of Indian land, where he has made an excellent farm home, and he has also donated one acre of the land to the county for public purposes. For four years he has served his community as a justice of the peace, for nine years was a notary public, and for a number of years has served as a member of the school board, the cause of education finding in him a faithful friend. His political affiliations are with the Democratic party.

Mr. Bradburn was married in 1866 to Mahala Pennell, who proved to him a worthy helpmate in their life on the plains of Texas, Indian Territory and Oklahoma. She was born January 3, 1835, and reared in North Carolina, a daughter of Richmond Lewis, both her parents dying in North Carolina. Of the seven children born of this union, five sons and two daughters, five are now living: Joseph W., Elisha, Charles, Eva Miller and Lillie Kenyon. The two deceased are Robert, who died at the age of

twenty-two years in the Chickasaw Nation, leaving a wife and one child, and Hugh, who was also a young man of twenty-two at the time of his death, both young men of great promise, well known and admired. Both Mr. and Mrs. Bradburn are members of the Baptist church.

Rev. Phillip H. Downing. One of the best known and one of the most valued citizens of Earlsboro township is Rev. Phillip H. Downing, a minister in the Free Will Baptist church and the president of the Rural Telephone Company. He is thoroughly earnest and sincere in all his works and deeds and has done much to further the upbuilding and improvement of his section of Oklahoma since coming here in 1905. He was born in Jefferson county, Iowa, December 15, 1851, a son of William and Sarah (Miller) Downing, the father a native son of Indiana of Pennsylvania parentage, while the mother was born in that state and was a representative of a Pennsylvania German family. The parents are both now deceased, the mother dying near Jefferson, Iowa, when her son Phillip was but a babe, leaving six children, five sons and a daughter, and the father survived until the age of eighty, dying in California. He was a tiller of the soil, a Republican politically and a member of the Methodist Episcopal church.

After the death of his mother Phillip H. Downing was reared in the home of his uncle, Phillip Miller, where he laid the foundation for his future field of usefulness. Leaving his native state of Iowa in 1895 he went to Franklin county, Illinois, and there he made his home until coming to Pottawatomie county, Oklahoma, in 1905. Here he has two good farms, with eighty acres under cultivation and well improved with orchards and good buildings. On the 28th of August, 1898, Rev. Downing was ordained a minister of the Free Will Baptist church, and for one year thereafter he served as the pastor of the Prairie City church in McDonough county, Illinois. Since coming to Oklahoma he has been active in the field of missionary work, diligent in the continuance of the work to which he early consecrated his life, and he has proved an efficient laborer in his Master's cause. He has at the same time been loyal to his duties as a citizen, and was one of the first promoters of the telephone here and assisted in organizing the Rural Telephone Company, of which he was made the president. The company was organized in 1907 and has proved of inestimable value to the citizens of the town and county.

Rev. Downing married first Ermine Snook, who died at the age of thirty-six years, a member of the New Light church. She left three children, Lulu Walker, Frank and Carl. On the 26th of October, 1892, he wedded Miss Evila Glasgow, who was born in Bloomfield, Davis county, Iowa, a daughter of Nathaniel and Sarah (Stagg) Glasgow. The father, a native of Kentucky, and of Scotch descent, died when fifty-seven years of age, and the mother survived until her sixty-eighth year, both members of the New Light Christian church. Of their eleven children seven are now living. One son, Warren Clyde, has been born to Rev. and Mrs. Downing, a lad of fourteen years.

Dr. James Monroe Byrum was born in Monroe county, Tennessee, July 19, 1871, a son of Peter and Mary (Cavette) Byrum. The family are descendants of the early settlers in East Tennessee and the Carolinas and are of Scotch-Irish origin. The parents, with the three sons and two daughters, removed to Charlotte, Arkansas, in 1881, where the children were given a common school education. The subject of this sketch, the eldest child, completed the high school course at Sulphur Rock, Arkansas, and a college training at the State University.

After teaching school at various places in his home county he conceived the idea of studying medicine and immediately began preparation for his life work under the well known physicians and surgeons, Drs. Kennerly and Dorr, of Batesville, Arkansas. He graduated from the Memphis Hospital Medical College with the class of 1900, and won a year in the City Hospital as interne. Returning to Sulphur Rock he located for practice, but the call to the west was too strong, so he relocated at Asher,

Oklahoma, in 1902, where he has a large and lucrative practice.

Dr. Byrum has always taken considerable interest in politics. Coming as he did of southern blood, the Democratic party is his home. He served two terms as chairman of his county central committee, looking in person after many of the details of the campaign when the new state was admitted, the majority of his party in Pottawatomie county at this time being larger by several hundred than ever before. He served as a delegate to the Congressional and State conventions in 1907 and 1908.

Dr. Byrum inherited a high regard for the Masonic fraternity and became a member at twenty-two years of age, serving as master both in Arkansas and Oklahoma. He is an active member of the County and State Medical societies and for two years was superintendent of public health for Pottawatomie county and president of the Oklahoma State Health Association in 1908.

He was married at Sulphur Rock, January 29, 1903, to Miss Leah Knox, daughter of Captain T. C. Knox, an old Mississippi family and a relative of President James Knox Polk. The only child of this union is a son, James Knox Byrum.

B. S. SHAW, whose beautiful country home is situated within Bales township, Pottawatomie county, Oklahoma, is by birth a Yankee, born near Boston, Massachusetts, in 1862, during the great Civil war period, son of Bartlett Shaw, who was born in New Hampshire and served as a gallant soldier in that conflict which took so many of America's best men to the field of battle, between 1861 and 1865. He was a member of the First Massachusetts Cavalry. He married Sarah E. Geleucia, born in Swampscott, Massachusetts, of an old New England family. The parents of Mr. Shaw removed from their home in Massachusetts to Jefferson county, Kansas, where the father died, aged sixty years. He was a Republican in politics and a member of the Universalist church. As a citizen and father there was no better within any community. His good wife now resides on the old home place in Jefferson county, Kansas. They were the parents of two sons and one daughter.

B. S. Shaw received his education in the common schools in Swampscott, Massachusetts, and grew to manhood on a farm in Kansas, where he was taught the usefulness of industry and frugality. His farm is known as the "Opal Farm," and contains one hundred and sixty acres of well tilled land. His cottage farm-house is a model of neatness, well furnished and cost him fourteen hundred dollars. He also has good tenant houses on his farm, which place is situated four miles northeast of the thriving town of McLoud. He is numbered among the pioneers who made the famous "run," at the time of the opening of the Kickapoo reservation, May 22, 1893, when he secured this valuable quarter section of land from the government, and thus commenced to lay the Shaw foundation for his present charming home, where he and his family are surrounded with all the comforts of life. Mr. Shaw was happily united in marriage in 1899 to Mary McCoy, a native of Texas, where she was reared and educated. She is the daughter of Charles McCoy, of McLoud. The issue by this marriage is one daughter—Opal Belle, a bright girl of eight summers now.

W. S. CLARK, M. D. Although young in years, Dr. W. S. Clark has the honor of being one of the pioneer physicians and surgeons of Pottawatomie county. He came to Oklahoma at the opening of the territory to settlement in 1891 and has since made his home here, prominently identified with the medical profession.

Dr. Clark was born in Alabama, near Eufaula, in 1870, a son of Daniel and Lucy (Thompson) Clark. The father was born in 1844 and died at the age of fifty-three years, a member of the Christian church, and to him and his wife were born twelve children, seven sons and five daughters. On their home farm in Texas the Doctor grew to a sturdy and vigorous manhood and received his literary training in its public schools. He first began the study of medicine under Dr. Walker, at that time a prominent and well known physician of Shawnee, and later he continued his medical re-

search in the College of Physicians and Surgeons of St. Louis, graduating at the completion of his course there. At the time of his arrival in Oklahoma he secured a choice claim two miles south of McComb of one hundred and sixty acres, upon which he proved, and he has since been identified with the business and professional interests of that city.

Dr. Clark was married in the Chickasaw Nation to Sarah Elizabeth Cloer, and their children are Oma A., Tandy Overton, Dooley V., Harley Briggs and William Suter. Dr. Clark is a prominent worker in Democratic ranks, and was a delegate to the first convention of his party held in Oklahoma. He is a member of the State and County and the South Pottawatomie Medical Societies and has also membership relations with the Masonic fraternity and the Independent Order of Odd Fellows, Lodge No. 207, in which he has held all the offices. He is a stanch advocate of education, religion and reform, and is one of the upbuilders of Pottawatomie county.

Dr. M. A. Warhurst is the secretary and treasurer of the Southern Pottawatomie County Medical Association and one of the best known medical practitioners of the county. He was born in Chariton county, Missouri, near Salisbury, September 21, 1864, and is a member of a family illustrious both in England and the United States. His great-grandfather was a native of England and was a valiant soldier under King James while in this country. Dr. Warhurst is a member of the same family as the Hon. John Morgan, of Alabama, and of Robert E. Lee. He is a son of Francis Marion and Virginia (Harris) Warhurst, the former of whom was born in Missouri. The mother is yet living on the old home farm in that state, now seventy years of age, but her husband died at the age of forty-two. He served as a soldier in the Missouri State Militia and was for many years a school teacher. He was a member of the Baptist church, as is also his wife. Their family numbered eight children, three sons and five daughters, and one of the sons, Charles, is a resident of Marceline, Missouri, while Robert is a resident of Howard county, that state.

The first son, M. A. Warhurst, is a graduate of Pritchett Institute of Missouri, with the class of 1885, and during ten years following his graduation he was at Lerado, Reno county, Kansas. Going from there to Arkansas, he was located near Fort Smith until his removal to Oklahoma in 1903. But previous to coming to this state he graduated from the Chicago Medical College with the class of 1899, and is now a member of the Medical Society of Oklahoma and of the American Medical Association of the United States, as well as being the secretary and treasurer of the Southern Pottawatomie County Medical Association. He is also the examining physician for the Modern Woodmen of America and for the Woodmen of the World. He owns a splendid farm of eighty acres in Pottawatomie county, the land being fertile and well improved and the place also contains excellent buildings and an orchard.

Dr. Warhurst married in Missouri Miss Lydia Noll, but she died in 1899, and in 1901 he married his present wife, Kate Pinkston, who was born in Savannah, Tennessee, a daughter of William H. and Elizabeth (Robertson) Pinkston. Dr. and Mrs. Warhurst have two sons, Hubert Olin and Herschel Eldon. Dr. Warhurst gives his political support to the Democratic party, and he is a member of the Odd Fellows fraternity, Remus Lodge No. 145, and of the Methodist Episcopal church. Mrs. Warhurst is a member of the Free Will Baptist church.

Lina P. Helm, of Earlsboro township, is one of the best known men of his community, public spirited, and an active worker in the cause of temperance, education and the church. He was born in Fauquier county, Virginia, March 3, 1854, of Scotch ancestry and a son of Richard and Ellen (Smith) Helm, both of whom were also born in the Old Dominion state. They moved to Carroll county, Missouri, in 1859, near Dewitt, where the mother died in December, 1864, and the father at the age of

fifty-three. They were members of the Methodist Episcopal church and in their family were twelve children, six sons and six daughters.

It was in 1893 that Lina Helm joined the tide of emigration to Oklahoma, and choosing Pottawatomie county as the place of his abode he purchased a farm in Section 28 and has since been active in its improvement and cultivation. At the same time he has taken an active interest in the public life of the community, serving with credit and honor as a member of the school board. The cause of education and religion find in him an especially good friend, working faithfully and earnestly in their upbuilding, and in the Methodist church, of which he is a member, he is a trustee and the superintendent of the Sunday-school.

In 1876 Mr. Helm was united in marriage to Julia Stanley, who was born on the 16th of February, 1860, a daughter of Bartlett and Nancy (Mahoney) Stanley, who were born in Kentucky. The mother died at the early age of thirty-five years, the mother of but one child, who grew to maturity, Mrs. Helm, and the father has now reached the advanced age of seventy-eight years and is a resident of Missouri. He served in the Confederate army during the Civil war, under the command of General Sterling Price, and was wounded in battle. He is both a farmer and a Democrat. Four sons and four daughters have been born to Mr. and Mrs. Helm—Edna Dyer, Violet Gibson, Douglass, Charlie, Myrtle (Vanlandingham), Forest, Stanley and Lottie. Mr. Helm votes with the Democratic party.

Professor B. C. Klepper. Foremost in the ranks of the educators of Pottawatomie county stands the name of Professor B. C. Klepper, recently the principal of the Asher public school. The school had been under his charge for five years, since 1903, and it is worthy of record that the office was never more competently or satisfactorily filled. In the fall of 1908, Professor Klepper accepted the principalship of one of the ward schools in the city of Shawnee. His connection with the interests of Oklahoma covers a period of thirteen years, antedating the arrival of the first railroad here, and in all that time he has directed his energies to the building up of its schools, an important branch in the line of work leading up to good citizenship.

Professor Klepper was born in the state of Tennessee in 1871, a member of a prominent old family of that commonwealth, and a son of B. M. and Mary (Howard) Klepper, the former from Tennessee and the latter from Virginia, and the father died in his native state at the age of seventy-two years. B. C. Klepper was their only child and he grew up in Tennessee, receiving an excellent education in Washington College, and at the age of twenty-five he entered upon his long and successful career of teaching. It was in 1895 that he came to Oklahoma, teaching for a time near Tecumseh, and he then accepted the principalship of the Earlsboro schools. From there he went to Avoca, this county, and after two years there came to Asher to become the principal of the schools here. The Asher school is a large four-room building, with an enrollment at the present time of two hundred and sixty pupils. Four competent teachers are employed, and all are under the direct supervision of the principal, Professor B. C. Klepper.

He married, May 31, 1899, Hattie Surber, who was born in Butler county, Kansas, reared and educated in Tecumseh, Oklahoma, whence the family had removed at the opening; she was a daughter of John H. Surber. Their two children are Herbert B. and Randal Gaw Wayne. Professor Klepper votes with the Republican party and has membership relations with the Odd Fellows fraternity, Lodge No. 127, which he has represented at the Grand Lodge. He is a member and an earnest worker of the Methodist Episcopal church, South, filling the office of clerk and superintendent of its Sunday-school.

Frank H. McDivitt, proprietor of Sunrise Farm, a fine estate of one hundred and sixty acres in Brinton township, was born in Pana, Illinois, November 9, 1871. His father, W. E. McDivitt, a successful and well known physician of Illinois for many years, was born and grew to years of maturity on a farm in Ohio, and during the

Civil war he served as a brave and loyal soldier. He married Sarah Hartup, also an Ohioan by birth, but she died in Illinois on the 12th of October, 1884, aged sixty years, leaving four children: Nancy E., Whittaker (who is a civil engineer and architect of Shawnee), Jennie May, at home; Frank H. and Mary E., a teacher in Shawnee public schools. The father is now living retired from an active professional career, a resident of Shawnee. The paternal grandmother of Frank H. was a first cousin of U. S. Grant.

In the state of his birth, Illinois, Frank H. McDivitt attained to manhood's estate, receiving in the meantime a public and high school education. In 1893 he became a resident of Oklahoma, residing for some years on the claim of his sister, Jennie M. McDivitt, adjoining the town of Shawnee, but this was before the advent of the railroad here and even before the town had been organized. In 1902 he purchased one of the choice farms of Brinton township, known as Sunrise Farm, which he has brought to a high state of cultivation and on which he has erected a nine-room residence costing twenty-eight hundred dollars. He also has a large barn for stock and grain, and is engaged quite extensively in the raising of high grade stock, including road horses, hogs and cattle.

Mr. McDivitt has been twice married, first in Schuyler county, Illinois, to Anna White, who was a teacher of music before her marriage and a daughter of W. P. and Harriet (Glandon) White, the father a veteran of the Civil war and a resident of Brooklyn, Illinois. The mother is deceased, as is also the first wife of Mr. McDivitt, who at her death left two sons, W. Lysle and Harold. She was but twenty-seven years of age at the time of her death. Mr. McDivitt afterward married her sister, Bertha, and they have five children: Bruce T., Myrle, Mary Alice, Olive B. and John G. Mr. McDivitt is a Republican, stanch and true, as have been the family for several generations, and religiously the members of the McDivitt family have long been connected with the Methodist church. His paternal grandmother was a cousin of Bishop Simpson, a noted Methodist divine of the early days, and the family trace this religious connection back for over one hundred years. Pottawatomie county numbers Frank H. McDivitt among her most valued citizens.

WILLIAM H. BROWN, proprietor of the Canadian Valley Farm, one of the most valuable estates of Pottawatomie county, is numbered among the early settlers of the valley. It was in 1888 that he came from his home state of Iowa to Indian Territory, farming for a time on leased land in the Chickasaw Nation, and in 1892 he came from there to Pottawatomie county, Oklahoma, and bought forty acres of his present estate, his first residence being a small board house. He is now the owner of a rich and fertile farm of two hundred and sixty acres, adorned with a pleasant, commodious residence costing seventeen hundred dollars, and the homestead is located three miles west of Shawnee.

Mr. Brown was born in Westmoreland county, Pennsylvania, east of Pittsburg, November 2, 1866, his parents being George S. and Frances (Bowman) Brown. The father lived to the age of four score years and ten, a brave and loyal soldier during the Civil war and a member of the Grand Army Post at Shawnee. His wife died just fourteen years ago, aged fifty-seven, and of their six children, three sons and three daughters, the sons and one daughter are residents of Oklahoma, and another daughter resides in Minnesota.

William H. Brown was but a boy at the time of the removal of his parents to Franklin county, Iowa, near Hampton, where he grew to manhood on a farm. He was married in the Chickasaw Nation in May of 1889, to Minnie Moore, who has proved a faithful helpmate in the journey of life and nobly shared with him the hardships of establishing a home in the southwest. She was born in Moultrie county, Illinois, a daughter of John and Rachel (Maple) Moore, well-known residents of Pottawatomie county. The mother died at the early age of thirty-two years, leaving three children. Five children have been born to Mr. and Mrs. Brown: Thomas, Carl and Car-

rie, twins, Lester and Martha. Mr. Brown is a Democrat in his political affiliations.

ABRAHAM LINCOLN KENNEDY. Pottawatomie county numbers among her earliest residents Abraham Lincoln Kennedy, a pioneer of 1889. At that time he located at King, now known as Dale, where his brother, Ranson B., was a trader, and one of the first to settle at King. Abraham L. Kennedy was born near Silver Lake, Shawnee county, Kansas. His father, Evan Ross, was one of the first to locate at Silver Lake, nine miles west of Topeka, and he operated a ferry boat on the Kaw river there until the memorable exodus to California in 1849, doing an excellent business as a ferryman. Mrs. Kennedy was a member of the Pottawatomie tribe of Indians, Susan Kebeto by name, and of their seven sons the following grew to mature years: Evan Ross, whose home is in Kansas; John E., of Shawnee; Abraham L., who is mentioned later; Allen, also of Kansas, and Ranson B., who died at Dale, Oklahoma, in March, 1891. He was born on the 8th of March, 1850, and was, therefore, just in the prime of life at the time of his death. To him belonged the credit of being one of the first residents, the first merchant and the first postmaster of Dale, and he was well known in Pottawatomie county. He left a widow and six children.

Abraham L. Kennedy spent the early years of his life in his native county of Shawnee, Kansas, and one of his boyhood's friends there was the Hon. Charles Curtis. He received a good business training at Haskell Institute, which he attended for three years. After coming to Oklahoma in 1889 he was engaged in trade at Dale for a number of years, and was also the assistant postmaster there for four years. He now owns a good farm in Bales township, and gives his entire attention to its cultivation and improvement. He is a member and for eight years a clerk of the fraternal order of Woodmen, and is a member of the Catholic church.

Mr. Kennedy married the widow of his brother, Sarah M. McKelvey Kennedy. She is a daughter of David L. and Eleanor (Rankin) McKelvey, both of whom are now deceased, the father dying in Iowa and the mother in Colorado when eighty-seven years of age. By her first husband Mrs. Kennedy had six children: Charles Wilson, Marion E., George T., Doshia Phillips, David R. and Clara May. Unto Mr. and Mrs. A. L. Kennedy have been born two children, Nettie Maud and Walter Evin.

W. M. JARVIS is prominently known throughout the southwest as an agriculturist and stock raiser and as the proprietor of The Heliker & Jarvis Seminole Company, one of the largest ranches in Seminole county, Oklahoma. This valuable tract contains ten thousand acres, eight thousand acres of which are under cultivation, and the land is very rich and especially well adapted to the raising of cotton, corn and alfalfa. Seventy-four tenant houses have been built on this farm, as well as a blacksmith shop and a good store. On the Indian lease land there is also a school house with an attendance of eighty-four pupils, superintended by a capable and efficient teacher, and church services are held in this school house once a month and Sunday-school every Sunday. The farm is under the management of Heliker & Jarvis, and these gentlemen are just and liberal in their dealings with their tenants and are numbered among the most prominent business men in this part of the state.

W. M. Jarvis came to the Indian Territory in 1880, and in 1890 to Pottawatomie county, Oklahoma, first locating near McLoud, from whence in 1900 he came to his present large estate. He has thus been a resident of what is now the state of Oklahoma for twenty-eight years, one of its earliest pioneers and now one of its leading business men. He was born in Shelbyville, Shelby county, Illinois, August 12, 1863, and is a representative of an old Virginian family. His father, Samuel Jarvis, was a Civil war soldier and died in Pottawatomie county, Oklahoma, when sixty-six years of age, a life-long farmer and a member of the Christian church. His mother, Sarah Foltz, was born in Pennsylvania and is of Pennsylvania Dutch descent. She is now living in this county, the mother of six children.

Their son W. M. Jarvis was fourteen years of age when he went to Iowa and from there he came to the Indian Territory and rode the range for years.

In Coles county, Illinois, he was united in marriage to Nettie Horsley, who was the first white child born in the Osage Nation of Indian Territory. The Indian chief of the nation some time later wished to adopt her, and being refused the parents were notified to leave that country. Her father, Theodore Horsley, died in Logan county, Oklahoma, a well known cattleman. Mrs. Jarvis was educated in the Osage Mission school, and her marriage has been blessed by the birth of seven childen: Ethel, Pearl, Floyd, Lois, Henry, Gladys and Elaine. Mr. Jarvis is an active Republican worker, and has served as a delegate to the state conventions. He is a member of the Masonic fraternity and a charter member of McLoud Lodge No. 157, which was organized at Dale. He is a man of excellent business qualifications, fair and honorable in his dealings, and he is one of the best known men of Pottawatomie county. Mrs. Jarvis is a member of the Christian church.

JOHN B. SMITH, who is farming in Earlsboro township, was born in Lawrence county, South Carolina, near Tylersville, August 9, 1840, a son of Noah and Jane (Owens) Smith and a grandson of Archer Smith, who moved from his native state of Maryland to the Carolinas. Noah Smith was born on the east shore of Maryland, and was but a boy at the time of his father's removal, attaining to mature years in South Carolina and there marrying the daughter of John Owens, a native Irishman and a soldier in the Revolutionary war. By her first marriage Mrs. Smith had one son, James Meades, now deceased, and John B. is the only child by her second marriage. She was born in 1799, and died at the age of seventy-eight years. Mr. Smith died at the age of sixty-eight. He was a life-long farmer, a Democrat politically and a member of the Presbyterian church.

During the early years of his life John B. Smith enlisted for service in the Civil war, serving under Stonewall Jackson and General Lee, and he took part in many of the noted battles of the war. Returning home after the close of the struggle he lived for forty-seven years in one house and in the same locality in South Carolina for fifty-three years, and then going to Collin county, Texas, in 1893, he was engaged in farming there near Anna until his removal to the territory of Oklahoma in 1894. Soon after his arrival he purchased the farm of John Berry in Earlsboro township and he has lived there ever since, developing and improving his land.

In his home state of South Carolina in 1872 Mr. Smith married Sarah Carolina Liles, a daughter of Abel and Nancy Liles, and their children are: Jane Jacks, deceased; Martha E. Green, of Dent township, Pottawatomie county; Edgar, who is married and lives in Shawnee; and Claude, Lawrence B. and John P., at home. The great loss of the family was in the death of the wife and mother, a beautiful Christian character and loved and honored by all who knew her. Mr. Smith is a Mason, a member of Palmetto Lodge No. 190.

GEORGE O. BROWN, proprietor of the famous Red Apple Fruit Farm in Brinton township, Pottawatomie county, has not only attained distinction as the owner of one of the most famous apple orchards in the entire state of Oklahoma, but is also one of the state's earliest pioneers, his residence here covering the intervening years since 1892. Forty-five acres of his farm is devoted to the raising of the choicest apples, but besides this he raises many other kinds of fruit and is one of the largest horticulturists in the southwest. His choice varieties of apples have won many medals, including the silver medal from the Louisiana Purchase Exposition at St. Louis in 1904, and the diploma medal at Missouri Rapids for the best Ben Davis apples.

Mr. and Mrs. Brown have been prominently identified with the fruit-growing interests of Oklahoma since 1892, when, with a team of Arkansas steers and a covered wagon, he made the journey from Texas to this community and with the help of a few neighbors built a little log cabin sixteen by eighteen feet, the kitchen, parlor, bedroom and the postoffice being all in one

room. Both Mr. and Mrs. Brown moved to Texas when he was sixteen years and she was seventeen, and it was there they were married. It was not long after his arrival in Pottawatomie county that he was made the postmaster of Brown, his wife performing most of the work of the office. In 1904 a good and substantial residence took the place of the first little home, around which clustered many pleasant memories of their early life in the new country of Oklahoma.

Mr. Brown was born in Vernon county, Missouri, near Nevada, September 14, 1861, and is a son of Moses and Elvira (Lewis) Brown, natives respectively of Kentucky and Missouri. The wife and mother died many years ago, in 1887, but the father survived until July, 1907, dying at the advanced age of eighty-five. He was a lifelong farmer, a Democrat politically. One of their sons, J. M., resides six miles east of Shawnee. G. O. Brown was reared on a Missouri farm, where he was early taught the value of industry as the only means of success, and his subsequent success has proved the wisdom of his training. In 1881 he was united in marriage to Alice Allison, who was born in Crawford county, Illinois, October 31, 1858, near Robinson, a daughter of C. M. Allison and a granddaughter of D. Y. Allison, both of whom were prominently identified with the educational interests of Illinois, the former a minister of the Missionary Baptist church, the latter having taught in Illinois for years, and his name is enrolled among the state's pioneer educators. C. M. Allison was a Civil war soldier and died during war times when but thirty years of age, leaving a widow and three children, two sons and a daughter, but Mrs. Brown is now the only member of her family living. One of the sons died when but eight years of age. The mother was a second time married, having two daughters and two sons by the last marriage, and she died at the age of forty-nine. One daughter has been born to Mr. and Mrs. Brown, Dessie Allison, who received an excellent training in the Shawnee high school and who was a teacher in one of the higher grades of the Center Point school. April 22, 1908, she married W. C. Ogle, of this county. Mr. and Mrs. Brown have also given a good home to a half sister's three children, Effie V., P. Henry and Osa Ella. Mr. Brown has served as a member of the school board for a number of years and votes with the Democratic party. He is a member of the Masonic and Odd Fellows fraternities, and the family are earnest workers in the Baptist church.

Omer McKown. Among the solid financial institutions of Pottawatomie county is numbered the First National Bank of Maud, which is officered by keen business men and able financiers, including its well-known cashier, Omer McKown, who has held this responsible position since the 17th of April, 1908. He was born in Clinton county, Missouri, in October, 1873, a great-great-grandson of a native Kentuckian who moved from there to Missouri, a grandson of a Civil war soldier, William McKown, and a son of Thomas McKown, who was born in Plattsburg, Missouri. He was a farmer and stockman and a member of the Free Will Baptist church.

Omer McKown spent the early years of his life on the home farm in Clinton county, Missouri, and it was in 1900 that he left that state for the southwest and located in Lincoln county, Oklahoma. He bought and improved farm lands in the vicinity of Stroud, that county, and was very successful in that line of business. During four years he also farmed in Keokuk township, Lincoln county, and at the close of that period accepted the position of deputy county treasurer under A. McLaughlin. Mr. McKown was bookkeeper of the First National Bank of Stroud, and later became the cashier of the First National Bank of Maud, both well-known and thoroughly reliable banking institutions.

In Buchanan county, Missouri, in 1891, Mr. McKown was married to Cora Stephens, a daughter of William T. Stephens, of Pottawatomie county, and the only living child of this union is Floyd R., twelve years of age. The second born, Leota, died at the age of ten years. Mr. McKown is an active Democratic worker, and in

Lincoln county in 1907 he was the candidate for the office of county treasurer, and was defeated by only one hundred and fifty votes. He is a man of pleasing personality and makes and retains many friends.

Stephen D. Heal is one of the prominent residents of Pottawatomie county, Oklahoma, where he has resided since 1893. He owns and cultivates a fine farm of two hundred acres, which he is bringing under a high state of cultivation, adding thereto all of the accessories and conveniences of a model farm of the twentieth century. A native of McLean county, Kentucky, he was born on the 23d of February, 1861. His father, Robert P. Heal, was a native of Maine and was a soldier in Florida at the time of the Seminole war. He was born in Waldo, Maine, in 1809, and died in 1881, at the age of nearly seventy-three years. Almost his entire life was devoted to general agricultural pursuits. In politics he was a Democrat and gave stalwart support to Stephen A. Douglas. His wife, who was born in Davis county, Kentucky, in 1824, lived to the age of eighty-four years.

Stephen D. Heal was one of a family of ten sons and a daughter. Two of the sons were soldiers of the Civil war. Stephen D. pursued his education in the common schools and has learned many valuable lessons in the school of experience. At thirty years of age he was married in Henderson, Kentucky, to Miss Emma Bohannon, who was born in McLean county, Kentucky, and was a daughter of Mr. and Mrs. W. Bohannon, both of whom are now deceased.

It was in the year 1893 that Mr. Heal arrived in Oklahoma and later purchased two hundred acres of land. His first house was a box dwelling of cottonwood, sixteen by sixteen feet, to which he afterward built an addition ten by sixteen feet. In 1901 he erected a modern residence with a slate stone roof. It is supplied with many equipments and accessories of the model home and is an attractive feature of the landscape. He has also built a large barn sixty-four by one hundred feet, which furnishes ample shelter for the mules which he raises. He makes a specialty of stock-raising of that character and in the cultivation of his fields is raising large crops of potatoes and alfalfa, having about one hundred and fifty acres planted to the latter crop. In fact, he is one of the largest alfalfa producers not only in this county but in the state. He has labored earnestly and persistently to bring his farm to its present state of development and improvement and has every reason to be proud of what he has accomplished. He holds to advanced ideas in his agricultural interests and has made a close study of the soil and climate and the possibilities offered thereby. In all of his labor he is practical as well as enterprising and is accomplishing splendid results.

Unto Mr. and Mrs. Heal have been born two children, a son and daughter: Pearl Sarah, now sixteen years of age, and Earl Stephen, a lad of eleven years. Mr. Heal politically is a stalwart Republican and a warm admirer of President Roosevelt. Fraternally he is connected with the Ancient Order of United Workmen and with the Modern Woodmen, and is true to the teachings of both organizations, which are based upon mutual helpfulness and kindliness, at the same time having certain insurance features. In manner he is frank, jovial and of kindly, generous spirit and has made many friends. His home is a hospitable one, the latch string always hanging out and those who know him greatly enjoy his genial companionship and his many good qualities.

William Oscar Timms, deceased, was for many years prominent in the agricultural life of Earlsboro township, and from 1894, when he arrived in the county, until his death on the 26th of December, 1905, when he had reached the age of sixty-seven years, he was intimately connected with its varied interests. He was born near Lena, on Yellow creek, in Stephenson county, Illinois, July 6, 1839, his parents having been among the early pioneers of that community, moving to that state from New York. One of their sons served as a major in the Ninety-sixth Illinois Infantry during the Civil war, and he now lives in Portland, Oregon.

On the home farm in Stephenson county, Illinois, William O. Timms grew to man-

hood's estate, and later in life he began dealing in horses and became very successful in the business. He sold his horses in New York and other large cities of the east, but finally his health began failing and he went to Butler county, Nebraska, a few years later, locating in Lincoln, that state, and after a time he came to Oklahoma. He first purchased a tract of eighty acres in Earlsboro township, but later, by purchasing Indian allotment land, he became the owner of an estate of four hundred and eighty acres, known as Sunny Slope Farm, and now the property of Mrs. Timms and her son, H. H. The estate contains a large and well-built residence and seven tenant houses, and is one of the beautiful homesteads of Pottawatomie county. His influence for good was felt by all who knew him, his sympathies were broad, and his memory will long remain in the hearts of his friends and associates.

In Grant county, Wisconsin, January 1, 1863, Mr. Timms married Miss Ellen Hugins, who was born in Iowa, March 5, 1843, before its admission to statehood, in Lee county, a daughter of Elliott and Mary Ann (Marchant) Hugins, natives respectively of Massachusetts and of Rochester, New York. The mother died in 1906, at the advanced age of ninety-five, and the father, who was one of the early pioneers of Iowa and a prominent and well-known lawyer there, died in Grant county, Wisconsin, at the age of fifty-four. The mother was a member of the Episcopal church. They left three children: Mary, Ellen and Laura. The six children born to Mr. and Mrs. Timms are: Louisa, whose home is in Atchison, Kansas; Mrs. Eva Belle Bean, died April, 1906, and left a family of three children; Homer H., who is mentioned below; Lewis W., a traveling salesman, whose home is in Wichita, Kansas; Josephine, wife of Dr. McGee, surgeon for the Chicago & Rock Island Railroad Company, and a resident of Shawnee, and one died in infancy. Mr. Timms was a Democrat politically and was a thirty-second degree Mason, also a member of the chapter and commandery. Mrs. Timms and her daughter, Mrs. McGee, are members of the order of Eastern Star, and, with two of her daughters, the mother is also a member of the Episcopal church.

Homer H. Timms, who, with his mother, carries on the work of Sunny Slope Farm, was born at Lena, Illinois, September 12, 1870, and was reared at his birthplace and in Butler county, Nebraska, receiving his higher educational training in the Lincoln University. He is married and has one daughter, Geneva Alice. Homer H. Timms upholds and supports the principles of the Democratic party.

CHRISTOPHER C. LEONARD is one of the prominent early residents of Earlsboro township, his identification with its agricultural interests covering a period of eighteen years, for it was in 1890 that he came to Pottawatomie county. At that time he bought the claim of a "sooner," and has made of this tract a fine farm, a part of the farm being rich bottom land on the Buzzard creek. The homestead farm contains one hundred and sixty acres, located six miles east of Shawnee and four miles from Earlsboro. Mr. Leonard is further honored by being a veteran of the Civil war, in which he served in the Union army as a member of Company E, Eighth Kansas Volunteers, under Captain Greeley, of Leavenworth, that state, and Colonel Martin. During his military service of nine months he took part in many battles and skirmishes, including those with Colonel Quantrell's troops in Missouri, General Forrest's troops and Hart's Rangers in Missouri.

Mr. Leonard was born in October of 1832, in Alsace-Lorraine, France, a son of a weaver and a man of excellent education, well versed in the law. His wife, Susan LaPont before marriage, died in France, but he came to the United States on a sailing vessel and located in New Orleans, Louisiana, from whence he later moved to Ohio, near Columbus.

The first business experience of his son, Christopher C. Leonard, was as a steamboat clerk. One of his early experiences was the witnessing of the cholera epidemic of 1844 in New Orleans, and going from there to Kansas in 1855, he took part in the

bloody border war with John and Jacob Brown, father and son, and Jim Lane, and he was in the battles of Lawrence, Kansas, in 1855. He also served as a guard at one time at the house of Jim Lane when the inmates were threatened with murder. Mr. Leonard continued his residence in Shawnee county, that state, for a time, but after the close of the Civil war he spent some time in Nodaway county, Missouri, near Filmore, but later returned to Shawnee county. From there he came to Oklahoma in 1890, and has since been identified with its agricultural and business interests.

He was married in Topeka, Kansas, in June, 1862, to Martha A. Marple, who was a native of Ohio and of Irish and German ancestry, and they became the parents of the following children: Susan Howard, Lafayette Porter, Frank, Adel Morland, Virgil (who died at the age of nineteen), Laura Howard (deceased), Eugene V., Mabel Hewit, Winnie Mosher and Zulmee Holt. Mr. Leonard is a stanch and true Republican, an earnest worker for the party and he cast his vote for its first presidential candidate, General Fremont, in 1856. The family suffered an irreparable loss on the 2d of October, 1904, when the wife and mother was taken from them by death. She was born in 1842, and was, therefore, sixty-two at the time of her death. She was loved and honored by all who had the pleasure of her acquaintance, a loving and affectionate wife and mother and a true friend, and her death is truly mourned.

J. L. Cotten. Honored and respected by all, J. L. Cotten has been for several years prominently identified with the public affairs of Pottawatomie county, and since 1907 he has served in its office of clerk. In his early life he secured an excellent educational training, studying for a time at Pine Grove Academy, of Alabama, and finally he became a successful teacher. His educational work, however, was interrupted by the trouble between the north and the south, and for two years and eight months he served with valor as a member of the Eighth Alabama Cavalry, under the cavalry commander, General Joe Wheeler. He represented Holmes county, Mississippi, for six years (three terms), from 1890 until 1897. He is a man of genial personality, frank and cordial in manner and a true southern gentleman. To know him is to admire him and to like him, and the latch string of his hospitable southern home is always out for those who come to see him.

Mr. Cotten is one of the eight children, four sons and four daughters, born to B. C. and Amanda (Sayers) Cotten, natives respectively of South and North Carolina. The birthplace of their son was in Monroe county, Alabama, in 1846, and when he had reached his twenty-second year he was united in marriage to Josephine Lindsay, their union being blessed with the following children: F. L., J. M., Mrs. Lee and Mittie C. The eldest son, F. L. Cotten, is his father's deputy clerk. The younger son, J. M. Cotten, is a resident of Mitchell county, Texas. Mr. J. L. Cotten, Sr., is a member of the Masonic order for over thirty years.

F. L. Cotten. During the past eight years F. L. Cotten has been identified with the business and political interests of Pottawatomie county, and during three years of that time he served the county as its jailer, and during a similar period he has been the efficient deputy sheriff.

Mr. Cotten was born in Mississippi in 1867, was reared there, a son of the well-known county clerk, J. L. Cotten. When he had attained the age of twenty-four, F. L. Cotten wedded Beulah Pinkstone, who was born, reared and educated in Tennessee, and their six children are Glover, Sadie, Montie, Vivian, Guion and Grady. Mr. Cotten is an active worker in the local ranks of the Democratic party, and has served as a delegate to its territorial and state conventions, and is a member and past officer of Lodge No. 3, of the Masonic fraternity.

F. W. Creel, superintendent of the Pottawatomie County farm, has been a prominent figure in the events which form the history of Pottawatomie county. His name is enrolled among its pioneer citizens and also among the early residents of Oklahoma, where, during the first four years

of his residence in the territory, he farmed a claim in Canadian county, but selling his land there came to Pottawatomie county. For some time he made his home in the town of Tecumseh, where he served his fellow citizens as a street commissioner, and being made the superintendent of the county farm he is now operating one hundred and twenty acres of land, the farm being located just midway between Shawnee and Tecumseh. The house was built in 1905, a two-story structure of twenty-five rooms, and there is also a large barn fifty by sixty feet. Ninety acres of the farm are under cultivation, and Mr. Creel is quite extensively engaged in the raising of Poland China hogs. He is proving the right man in the right place, and is an efficient public officer.

He was born in Adair county, Kentucky, in 1849, a son of Henry and Elizabeth (Hatcher) Creel, both of whom were born in Virginia, and they were farming people, but are now deceased. Both families were represented in the Civil war, fighting on both sides, the Creels in the Confederate army and the Hatchers in the Union army, and they were Baptists in their religious belief.

F. W. Creel was one of their four children, three sons and a daughter, and when twenty years of age he went from his home state of Kentucky to Carroll county, Missouri, where, in the following year, he was married to Bettie Allen, a native daughter of the Blue Grass state, and their three children are: John H., of Missouri; William, whose home is in California, and James C., of Fort Worth, Texas. Mrs. Creel died in Missouri, and Mr. Creel afterward married Mrs. Ida Sommers Kendall, from Virginia, their five children being: Arthur, in business in Shawnee; Golden, Le Roy, Hunter and Burney. Mr. Creel is an active worker for the Democratic party, has attended its conventions as delegate, and in 1904 was elected one of the commissioners of the county. He is a member of Tecumseh Lodge No. 24, I. O. O. F., and is a member of the Christian church, Mrs. Creel being a member of the Baptist church.

Edward C. Nichols is one of Tecumseh's most active business men, prominently identified with its mercantile and banking interests. He was born in New York September 3, 1839, a son of Roland and Betsy (Durand) Nichols, members of prominent old families of the Empire state. Roland Nichols was prominent as a farmer and stock raiser and died in 1865, when sixty-five years of age.

In the common schools and the Keysville Academy, of New York, Edward C. Nichols received his educational training, and during the early part of his business life was a farmer and stone cutter. In 1860 he journeyed to the golden state of California and engaged in the marble business in Red Bluffs and Santa Cruz, at the same time following mining to some extent in Trinity county. He remained on the Pacific slope for twenty-two years, and at the close of the period, in 1882, went to Cook county, Texas, and purchased twelve hundred and sixty acres of land. For ten years he was in the cattle business there, finally drifting into the hardware business, and in June, 1892 he came to Tecumseh and embarked in the same business, building the brick store in which S. P. Larsh now carries on his hardware trade. Mr. Nichols sold his business to Mr. Larsh in 1906, intending to retire from active labor, but at this time another building which he owned was vacant and he opened therein his present furniture, carpet and casket business, one of the leading mercantile interests of the city. Since 1895 Mr. Nichols has been a stockholder and director in the First National Bank of Tecumseh, and since 1905 has been its vice president. He is also the vice president of the state bank at McComb, the vice president of the First National Bank of Wanette and is a stockholder in the Tecumseh Oil Mill.

In Santa Cruz, California, in 1873, Mr. Nichols married Amelia Langenback, born in Boston of German parents, and their four children are: Emily, now Mrs. E. B. Monday, of Wanette: Herbert R., the cashier of the First National Bank of Tecumseh; Edna A., and Edward, who died in 1900, when twenty-nine years of age. Mr.

Nichols is a Thirty-second degree Mason and a member of the commandery and the shrine.

CLARENCE ROBISON is a member of one of the first families to establish their home within the territory of Oklahoma, and from an early period in its development to the present time he has been prominently identified with its educational interests. He was born in Comanche county, Texas, December 11, 1875, a son of Martin Van Buren and Maria L. (Williams) Robison, natives respectively of Illinois and Alabama. Martin V. Robison served for three and a half years in the war in the Forty-seventh Illinois Infantry, under Grant and Sherman, and fought at Vicksburg, Corinth and in other of the hard-fought engagements of the conflict. In 1870 he moved to Texas, and in 1884 came to Tishomingo, of the Chickasha Nation, Indian Territory, where he farmed until his removal to Pottawatomie county in 1893.

In the schools of Texas and Oklahoma Clarence Robison received his educational training, graduating from the Central Street Normal School at Edmond. He has taught for eleven years in Pottawatomie county, five years in the country schools, three years as principal of Earlsboro, and for three years was principal of the Tecumseh high school. At the election in September, 1907, he was made the county superintendent of schools of Pottawatomie county, and he is proving an able and competent official. He may be termed one of the pioneer educators of Oklahoma, for his name has been inseparably interwoven with the history of its educational interests since the days of its log schoolhouses to the present time. He is a member of the Masonic order at Tecumseh, and is noble grand in the fraternal order of Odd Fellows. He is a member of the Christian church.

GEORGE STONE, the registrar of deeds for Pottawatomie county, was born in Arkansas, July 25, 1867, a son of Job and Frances (Townsend) Stone, the father a native of Pennsylvania and the mother of South Carolina. When a young man Job Stone moved from the east to Arkansas, where he was engaged in farming until his death in 1887, aged sixty-four years.

George Stone received his educational training in the schools of his native commonwealth, and thereafter was identified with agricultural pursuits until his father's death, while for four years he was also the proprietor of a flouring mill. Going from there to Texas he was for four years in the cattle business and for three years the proprietor of a blacksmith shop, and it was in Janüary of 1897 that he came from the Lone Star state to Cleveland county, Oklahoma, where, for four years, he conducted a blacksmith shop, and then moved to Asher, this county. In 1902 he volunteered to assist in the capture of desperadoes who had committed robberies in that city, and in the pursuit which followed received a shot wound which lamed him for life. He continued to serve as a deputy sheriff until in 1904, when he was elected the registrar of deeds for Pottawatomie county. At the election he received a majority of eight hundred and forty-six votes, and was returned to the office for a second term by a majority of sixteen hundred and twelve votes. He was elected by the Democratic party.

On the 16th of March, 1891, Mr. Stone married Margaret Jones, a native of Arkansas, and among their eight living children are triplets. They also have one child deceased. Mr. Stone is a member of the Masonic order, Lodge No. 110 of Asher, Independent Order of Odd Fellows, Asher Lodge No. 127, and of the Eagles, No. 198, at Shawnee.

JUDGE JOHN A. CLARK is known in southern Oklahoma as a man of high attainments and ability as a lawyer and as one who has achieved success in his profession. His professional career was begun as a teacher in the schools of Illinois, but his work was shortly interrupted by his enlistment for the war, and after returning home at the close of the conflict he resumed his teaching and also began the study of law. He was an earnest and diligent student in the preparation of his future life work, and was admitted to the bar at Mount Vernon, Illinois, in 1881, and he located for practice

at Paris, that state. At the opening of the Pottawatomie reservation for settlement he came to Oklahoma, arriving here on the night of the memorable cloudburst, May 21, 1891, and he secured claim No. 1. During a number of years following his removal to this state he was in partnership with B. F. Burnell, of Oklahoma City, and both became very prominent in the legal fraternity here. His homestead is now known as Glenwood, one of the beautiful estates of the county.

Judge Clark was born in Blount county, Tennessee, near Marysville, November 17, 1845, the same year in which Texas was admitted to the Union, and he is descended from one of the oldest and best-known families of Tennessee. He is in direct line from the valiant Revolutionary soldier of that name who served with the Light Horse cavalry of Virginia. The first of the name to locate in Tennessee was "Old Johnnie Clark," a pioneer miller and a noted character of his time. He was perhaps one of the best-known men then of his part of the state, for his mill was patronized by people from a distance of fifty miles or more. The father of the Judge was St. Clair Clark, a carpenter and contractor and a Jackson Democrat politically. He married Nancy E. Davis, of Mississippi, and they became the parents of six children, four sons and two daughters, but only two are now living, John A. and W. E., the latter a physician of Marion, Illinois. The parents have also passed away, the father dying in Saline county, Illinois, at the age of forty years, and the mother in Paducah, Kentucky.

John A. Clark spent the first few years of his life in his native state of Tennessee, receiving an excellent education in its public and normal schools, and he then moved with his parents to Saline county, Illinois. In 1861 he enlisted in the Twenty-ninth Illinois Infantry, from which he was shortly afterward discharged, and in 1862 he became a member of the Seventh Illinois Cavalry, Company H, Colonel Erskin's regiment and Captain Webber's company. Receiving his discharge from that command in 1863, he then assisted in raising the reorganized Thirteenth Illinois Cavalry, of which he became a commissioned officer and saw active service in Mississippi and Tennessee. He was with Generals Banks and Steele in the Red River expedition, and was twice wounded, on the 22d of July, 1864, while in front of Atlanta, and while with the Red River expedition was wounded in the leg. He was honorably discharged from the service at Pine Bluff, Arkansas.

At Vincennes, Indiana, in 1881, Judge Clark wedded Ninnie, a daughter of John and Margaret (Badolette) Coan. Colonel Badolette, Mrs. Clark's grandfather, was a West Point graduate and an officer in the Mexican war. The two children of this union are Nina and John St. Clair. The daughter is the wife of Max Lee Cunningham, a civil engineer of Enid, Oklahoma. The son is yet a student.

JOHN G. HUDIBURG has the honor of having been elected the first clerk of the district court in the new state, assuming the duties of the office in November, 1907. He has also been prominently before the people as an instructor, and few have a wider acquaintanceship in Pottawatomie county than John G. Hudiburg. Although so conspicuously identified with the interests of Oklahoma, he is a native son of Tennessee, born in Hardin county on the 29th of October, 1861. On both the paternal and maternal sides he represents prominent old families of that state, both of his grandfathers having been numbered among the first settlers of Hardin county, which was named in honor of his grandfather Hardin. He is a son of S. S. and Rachel (Coveny) Hudiburg, who were also born in Tennessee. The father, born in 1835, still resides in the state of his nativity, but the mother died in 1885, at the age of fifty-three years.

After attending the public schools and Hardin College, John G. Hudiburg began teaching at Waynesboro, Tennessee, in 1888, taught about two years in Tennessee, then was traveling salesman in twenty-two states for about three years; again took up teaching until the fall of 1897, when he came to Oklahoma. He resumed his school work in the country schools of Pottawatomie county. During one year he was the

superintendent of schools at Wetumka, Indian Territory, and his professional labors were continued until he entered the office of district clerk in 1907, being elected on the Democratic ticket.

He is a member of the Farmers' Union, having ever taken a deep interest in the welfare of the agriculturist, and is a member of the Cumberland Presbyterian church.

WALTER C. PERRY. The public officials of Pottawatomie county include among their number Walter C. Perry, who is an active worker in the local ranks of the Democratic party and is now the incumbent of the office of treasurer. He assumed the duties of this position in 1904, and in 1907 was returned to the office for another term. He also has the honor of having been made a commissioner at the first election held in Cleveland county.

Mr. Perry is a member of an old Southern family of Georgia, of English and Scotch-Irish descent on the paternal side, and both of his parents, James L. and Martha J. (Bellah) Perry, were born in that commonwealth, the father born in 1812. From there they moved to Florida in 1867, and James L. Perry died in that state in 1889. Their son, Walter, was born in Coweta county, Georgia, October 7, 1847, and received his education in the high school and the Georgia Academy at Newnan. In July, 1864, when a boy of seventeen, he became a member of the Confederate army, Phillip's Legion, and served until the close of the Civil war, having been in active service during most of the time. He also had two brothers in his command, W. H. and J. M. Perry. After the close of the conflict Mr. Perry began farming with his father in Florida, but in 1874 removed to Texas and farmed there until his removal to the Chickasha Nation in 1884. He was identified with agricultural pursuits there at Paul's Valley before the advent of the railroad into that section of the country, but in 1889 he left there and came to Cleveland county, Oklahoma, still continuing as a tiller of the soil. He can thus claim the honor of being one of the pioneers of Oklahoma. In 1897 he became a resident of Pottawatomie county, farming for a time one hundred and sixty acres of land, five miles east of Shawnee, but, selling his farm he went into the mercantile business in Asher. His election to the office of county treasurer in 1904 necessitated his removal to Tecumseh, where he is prominently identified with its political and social life. He is a member of the Masonic order at Asher, and has membership relations with the Methodist Episcopal church.

Mr. Perry married, in 1867, Miss M. C. Roberts, a native daughter of Florida and a member of one of its prominent early families. Her father, Arthur Roberts, was one of the pioneers of the state and was a man of prominence there. He was a valiant soldier in the Indian war, and during the conflict between the north and the south he served with the rank of colonel. The five children of Mr. and Mrs. Perry are: Maggie L., the wife of F. L. Davis, of Tecumseh; James A., in business in Shawnee; Hattie, the wife of W. M. Percy, of Lindsay; Ernest L., in the treasurer's office with his father, and Maud C., married W. M. Cole, now deceased. Mr. Perry is a man of high character and true worth, a splendid type of the pioneers of Oklahoma.

JOSEPH C. ORR resides on his farm in northeast part of Davis township, Pottawatomie county, which is known as the Gertrude Washington farm, having been allotted to her, a Shawnee Indian, now deceased. He first located in the Seminole Nation, Indian Territory, four miles east of his present place, and brought the first portable sawmill into this part of Oklahoma. For seven years Mr. Orr continued in the lumber business, finally, however, drifting into the mercantile trade and for five years was associated in business with J. T. Peyton and George Traynor at Econtuchka, one of the early trading points of this section of Oklahoma. Mr. Orr's farm contains three hundred and sixty acres, and is devoted principally to the raising of cotton and contains six tenant houses, in addition to his own residence, which is beautifully located in a grove of native trees.

Joseph C. Orr was born in Cumberland county, Pennsylvania, near Harrisburg, in 1862, a son of James and Elizabeth (Crain)

Orr, both of whom were also born in that locality, and the paternal family is a stanch Scotch-Irish Protestant of the Presbyterian belief. Their four children are: Rebecca Sponsler and William, both of whom are living in Pennsylvania, the latter in Pittsburg; James S., whose home is in Cincinnati, Ohio, and Joseph C. During his early life Joseph C. Orr received an excellent educational training, attending the public schools and finally graduating from one of the oldest educational institutions in the state.

Mr. Orr was married to Miss Daisy Mathis in 1894. She was a daughter of J. B. Mathis, one of the prominent early residents of Pottawatomie county, and the union was blessed by the birth of one son, Don M., now a lad of twelve years. Mrs. Orr died in 1895 and in January, 1904, Mr. Orr wedded Miss Esther Acock, who was born and reared in Missouri, a daughter of W. R. and Elizabeth (Stephens) Acock. To this union have been born two daughters, Agnes E., who is now two years old, and Rebecca May, born May 6, 1908. Mr. Orr is a member of the Masonic fraternity, Shawnee Lodge No. 27.

THE LAZZELL FAMILY. Julia Lazzell, of section 22, township 8, of Pottawatomie county, Oklahoma, is well known to the English settlers of the county in which she resides, as the widow of Thomas Jefferson Lazzell, one of the first men to lead the vanguard into this part of the state of Oklahoma. He was prominently connected with the first settlement and was one of the delegates to select lands for the allotment of the Pottawatomie county Indians. He was born March 19, 1835, in Old Virginia, a son of William and Sarah Lazzell, French people. He was one of a family of fourteen children, four of whom became soldiers in the Civil war. Thomas J. was reared in Virginia, until aged twenty-one years, when he went, in 1856, to Kansas, and later went to Pike's Peak, with a mule pack train, with John Anderson.

Thomas J. Lazzell came to Oklahoma in 1874, when it was yet a reservation for the Indian tribes of the great southwest. Here he owned a good farm, which he sold in 1900, and purchased a quarter section of fine land, upon which he erected a good modern house of six rooms, and furnished in style better than most of his neighbors. He improved the place by setting out many fruit and shade trees. Mr. Lazzell was aged seventy-two years at his death in 1906. He was a large man, weighing two hundred pounds, and was six feet in height. Mr. Lazzell was a Mason and was connected with the Kansas military companies and saw much service on the plains of the great west, as well as in the Civil war.

The date of his marriage was September 11, 1858, when he wedded Julia Delain, born at Council Bluffs, Iowa, in 1842, daughter of Charles C. Delain, a Frenchman, who was a blacksmith in the employ of the government. Her mother, Archange Morae, born in Chicago, is of the Pottawatomie tribe of French Indians. Eight children were born to Mr. and Mrs. Lazzell, five of whom are deceased, three dying in infancy, one at fourteen years, one married, died aged seventeen, and three are living on the reservation. John Willis Lazzell lives in Shawnee; Peter is a farmer in this township; the other child is Ivy Quinn, and she has one daughter, a bright-eyed child of eight years. Mrs. Julia Lazzell, the good mother, has seen much of pioneer hardship in the western country. She witnessed the exodus of the Mormons in 1846-7, as well as the gold seekers of 1849, who went to Pike's Peak. She was educated at St. Mary's, Kansas, and is a member of the Catholic church.

JOEL ROBINETT, proprietor of Rock Springs Farm, a valuable estate of two hundred and forty acres in Earlsboro township, near the town of Shawnee, is one of the best-known citizens of the community, and has resided here since 1896. At that time he bought an allotment from Indians, the Little Bears, which contained an old log house and a few acres under cultivation. In the early days of the territory Rock Hill Farm was a favorite resort for the Indians, as it contains many springs of clear, cold water. It is now one of the best-improved homesteads in the township, containing many large and substantial

buildings, and the land is devoted to the raising of diversified crops.

During the seven years previous to his coming to Oklahoma Mr. Robinett had resided in Indian Territory, farming on lands which he leased from the Indians in the Chickasha Nation, but he was born in northern Georgia, January 5, 1854, a son of Joel Robinett, who was born in North Carolina and died when his son and namesake was but a babe of eight months, leaving a wife and nine children, three sons and six daughters, and two of the daughters are living in what was Indian Territory, and two, Nancy Burnett and Adelia Hamlin, in Oklahoma. Mr. Robinett, Sr., was a farmer all his life, and both he and his wife were of the Missionary Baptist faith. They reared their children to lives of usefulness on the farm, and when the son, Joel, had reached his nineteenth year he left home and spent the two following years on a ranch in Texas. Returning then to his home state of Georgia he farmed there for three years, and going again to Texas he took his mother and a sister with him and located in Grayson county. The mother died in that state, and later, in 1888, Mr. Robinett went to Indian Territory, which continued as his home until his coming to Pottawatomie county, Oklahoma, in 1896.

In Gordon county, Georgia, in 1890, he married Miss Nevada, a daughter of John and Armina House, all of whom were born in that state. Mr. and Mrs. Robinett have three children, Celestia, Jessie and John Red, aged respectively sixteen, fourteen and thirteen years, and they also lost two in infancy, Joe Lee and Lafayette. Mr. Robinett is a believer in Democratic principles, and the family are of the Missionary Baptist faith.

S. L. WHITLEY, proprietor of the Bronze Medal Orchards of Brinton township, Pottawatomie county, is one of the best-known fruit growers in this part of the state, his residence in Oklahoma covering the intervening period since 1893. His orchard is one of the best in Oklahoma, and at the St. Louis exposition in 1904 he received the bronze medal for the best apples grown in Oklahoma. His estate embraces eighty acres of rich and fertile land, and forty acres of this is devoted to the orchard and is known as the Bronze Medal Orchards.

Mr. Whitley was born in Leavenworth county, Kansas, June 27, 1867. His father, John Whitley, a Confederate soldier under General Joe Shelby, settled in Kansas at the close of the Civil war, from whence he later moved to Kentucky, and going from there to Missouri was married to Mary Alexander, a daughter of one of the early pioneers of Johnson county, that state. For a time after their marriage Mr. and Mrs. Whitley lived in Osage county, Kansas, and in 1878 the family moved from there to Grayson county, Texas, later, in 1883, coming to Ardmore, Indian Territory, and just ten years afterward, in 1893, they continued their journey to Oklahoma, locating on the farm now the property of their son, S. L., where the father died in 1901, at the age of seventy-two years. His entire business career was devoted to the farm, and he was politically a Democrat, of the stanch Jackson type, and was a member of the Missionary Baptist church. His widow is still living, a member of the Methodist Episcopal church. Their children are Alice, Artie, Cora, S. L. and John, the sons both residents of Brinton township, Pottawatomie county.

S. L. Whitley grew to manhood's estate on Kansas and Texas farms, and in the latter state he married Almeda Smith, who was born in Burnett county, that state, a daughter of Michael and Rebecca (Hogue) Smith, of Comanche county, Oklahoma, and the parents of nine children. Four children have been born to Mr. and Mrs. Whitley: Joseph, Alice, Artie and Ollie. Mr. Whitley is an earnest worker in the ranks of the Democratic party, and for five years he served his township as a trustee, also serving as a delegate to conventions, and in October, 1907, he represented his party at the Farmers' National Congress at Oklahoma City. He is an Odd Fellow, belonging to Brown Lodge No. 82.

O. W. GRIMWOOD. Pottawatomie county numbers among its best-known business men and pioneers O. W. Grimwood, who has been prominently identified with its

business interests since 1893. During the first years of his residence here he lived on a farm just south of the town of Brown, and then forming a partnership with A. B. Ramsey they bought the general store of T. D. Williamson, which they conducted from 1900 until 1905. The style of the firm was then changed to Ramsey & Tarbox, and still later the Brown Trading Company was organized with O. W. Grimwood as manager. O. W. Grimwood is also the proprietor of the Brown Gin Mill, which has a capacity of fifteen hundred bales of cotton per annum, and they do a large and constantly growing business.

He was born in Knox county, Ohio, in 1866, a son of W. J. and Henrietta (Lybarger) Grimwood. The father, born in Toronto, Canada, served in the Union army during the Civil war for four years as an aide to a colonel, and he died at the age of fifty-nine years in Pottawatomie county. His wife was fifty-six years of age at the time of her death. Their children were O. W., Charles, Nelly Tarbox and Jessie E. McFall, all of Oklahoma, and Frank, William and Anna, who live in Kansas. The eldest of the children, O. W. Grimwood, was but a boy at the time of the removal of the family to Hornellsville, New York, where they lived on the Canisteo river for three years, then lived near Chillicothe, Missouri, for five years, and they then went to Chase county, Kansas, settling near Cottonwood Falls. In that state, in 1886, he married Mary F. White, who was born in Ohio, and her father, William White, is now a resident of Kiowa county, Oklahoma. He was a soldier in the Civil war and is a member of the Grand Army of the Republic. Of the nine children born to Mr. and Mrs. White only two are living in Pottawatomie county, Mrs. Grimwood and her brother, George White. Four children have been born to Mr. and Mrs. Grimwood, namely: Cora B., a popular and successful teacher in the home schools; Retta E. Butler, whose home is in Brinton township, and Alta and Charles W. Mr. Grimwood is an active worker in the local ranks of the Republican party, and at one time was a candidate for the office of registrar of deeds. He is a member of the Independent Order of Odd Fellows, Lodge No. 82, of Brown.

RICHARD F. KING, one of the leading business men of Pottawatomie county, is a native son of the Lone Star state of Texas, born in Wise county, in 1865, a son of Lycurgus and Sarah (Giddens) King, born respectively in Missouri and Kentucky. The father was a Confederate soldier during the Civil war, and leaving his native state of Missouri he journeyed to Texas and from there in 1869 to Kansas, settling near Emporia in Lyons county, where he died at the age of fifty-eight years. He was a prominent stockman and farmer during his lifetime, a Jackson Democrat politically, and both he and his wife were members of the Baptist church. Of their family of six children four are living, but Richard F. King is the only representative of his family in Oklahoma.

He was reared to manhood on a Kansas farm, and received a part of his educational training in a government fort in New Mexico. At the age of twenty, in 1886, he enlisted in the United States army, Company H, Tenth United States Infantry of Volunteers, under Colonel Douglass, and was stationed in New Mexico in General Miles' command. For two years he was also a member of the hospital corps at Fortress Monroe, Virginia, and his entire military service covered a period of five years, years of faithful and honorable service. In 1892, an early period in its history, Mr. King came from Chicago, Illinois, to Pottawatomie county, Oklahoma, where he has since been prominent in business, and is now the owner of Lookout Hill Farm, a valuable estate of one hundred and sixty acres. His first home here was a little log cabin fourteen by sixteen and a half feet, but in 1902 this gave place to his present commodious and pleasant home. He is a partner with Mr. Grimwood in a gin mill at Brown, has served his party, the Democratic, as a delegate to conventions, and has also been the incumbent of the offices of township clerk and justice of the peace. His fra-

ternal relations are with the Independent Order of Odd Fellows, Brown Lodge No. 82.

In Lyons county, Kansas, in 1891, Mr. King was united in marriage to Mary Kemp, born and reared in that state, a daughter of Joshua and Mary (Pike) Kemp. Seven children have been born of this union: James, Richard, Harry, Carl, Ella and Elsie, and a son, Ralph, who is deceased.

H. G. Campbell, M. D. Among those who are practicing medicine and surgery in Asher and at the same time demonstrating their ability to cope with disease is numbered Dr. H. G. Campbell, who located in this city in 1907 and is now in partnership with Dr. Byrum. He is an honorary graduate of the University of Nashville, Tennessee, with the class of 1903, serving the following year as interne in the city hospital at Nashville. In the winter of 1905 he took a post-graduate course at the New York Polyclinic Medical School, of New York. Dr. Campbell is a native son of Izard county, Arkansas, born June 24, 1872, to Rev. John W. and Charlene Kavanaugh (Davis) Campbell. The father was born in Kentucky and was a minister of the gospel in the Cumberland Presbyterian church, a man honored and revered by all who knew him and one whose memory is yet enshrined in the hearts of his many friends. He died in 1880, at the age of forty years, leaving a widow and two children, one of whom S. D. Campbell is a resident of Newport, Arkansas, and an attorney.

Dr. H. G. Campbell spent the early years of his life in his native state of Arkansas, receiving a high school and college training at Lacrosse and Batesville, and for eight years thereafter he was engaged in teaching school in Newport and other towns of that state. He was married at Batesville in April, 1907, to Pearl Reeder, a daughter of Mrs. Emma Reeder. Dr. and Mrs. Campbell are Presbyterians in religion, and the Doctor is also a member of the Masonic order and of the Benevolent and Protective Order of Elks. His profession connects him with the Pottawatomie County Medical Society and the Pauls Valley Medical Society, and his political affiliations are with the Democratic party.

Reid Riggins, the president of the Canadian Valley Bank of Asher, has been a resident of this city since 1902, but since 1899 he has been prominently identified with the banking and other interests of Oklahoma. He was born in Clinton, Henry county, Missouri, September 18, 1868, and is a member of a well known family of that community. His father, George Riggins, died when his son Reid was but three years old. He was a well known contractor and builder of Clinton, Missouri, whither he moved from his native state of Illinois, and during the Civil war he served as a member of the Confederate army, principally on the Mississippi river. He was a Democrat politically, and religiously a member of the Cumberland Presbyterian church. His death occurred when he was but thirty years of age, leaving a wife and two children, Reid and Wyatt, the younger the assistant cashier of the National Bank of Bowie, Texas. His widow is a resident of Austin, that state.

Reid Riggins was a lad of six at the time of his mother's removal to Texas, and there he grew to manhood's estate and received an excellent educational training in the graded and high schools and in a normal college. After leaving school he was for two years engaged in railroad work for the M., K. & T. and T. & P. railroads at Whitesboro, Texas, and for ten years identified with the Santa Fe Railway Co. at Gainesville, Texas; for five years of this time as cashier of the company. Then going to Duncan, Indian Territory, assisted in organizing the Duncan Bank, a national institution, and continued as its cashier until 1901. The bank at that time changed hands, and Mr. Riggins went to Atoka, in the same territory, and assisted in organizing the Atoka National Bank, and became its cashier, but a short time afterward he accepted the position of assistant cashier of the First National Bank of Holdenville, Indian Territory, and remained there until he came to Asher to enter upon his successful connec-

tion with the Canadian Valley Bank, which is capitalized at ten thousand dollars and is under the supervision of Reid Riggins, president, and F. J. Richards, cashier, while the directors are Reid Riggins, A. T. Douglas and F. J. Richards, all men of prominence and well known ability, and the bank is one of the solid financial institutions of the county.

In Anderson, Indiana, in 1892, Mr. Riggins married Fay Mershon, a successful teacher before her marriage and a daughter of J. D. Mershon and a sister of W. R. Mershon, both prominent and well known residents of Pottawatomie county. The three children of Mr. and Mrs. Riggins are Russell, a lad of eleven years; May Josephine, who is three years of age, and Percy, named in honor of Captain P. M. Percy, of the U. S. navy and a cousin of his mother. Mr. Riggins gives a stanch support to the Democratic party, an active worker in its local ranks, and fraternally he is a member of the Masonic order, the Independent Order of Odd Fellows and of the Knights of Pythias. The family are of the Methodist faith.

I. B. Albert. Among the efficient financiers and officials of Oklahoma is recorded the name of I. B. Albert, who is now serving in the office of justice of McComb, an office equivalent to that of judge in other places. During two terms, beginning in 1903, he was the justice of Burnett township, and he also represented the Democratic party as a delegate to its convention in 1906. Throughout the period of his residence here he has been actively interested in all measures advanced for the good of the people, has performed his full share in the development and improvement of the city and county, and many of the finest buildings of McComb and vicinity stand as monuments to his skill. During his early life he learned the carpenter's trade, and has become an excellent contractor and mechanic.

Justice Albert was born in Clay county, Indiana, in March, 1853, a son of Isaac and Elizabeth (Haney) Albert, both of whom were born in Pennsylvania and were of German ancestry. They were farming people, and both are now deceased, the father dying in Texas when he had reached the age of sixty years, and the mother's death occurred in Colorado at the age of sixty-seven years. Their family numbered eight children, among whom was the present justice of McComb, I. B. Albert. When a youth of fourteen he went to Benton county, Missouri, and going from there to Montague county, Texas, in 1874, he spent eighteen months there and then returned to Missouri. Again moving, he was in Cherokee county, Kansas, spent one year in Texas, and then came to Oklahoma, where in Pottawatomie county he now stands prominently forth on the pages of its political and industrial history.

Mr. Albert married, in Benton county, Missouri, in 1874, Miss Magdalena Johnson, who was born, reared and educated in that county. Her father, John F. Johnson, served as a soldier in the Union army during the Civil war, and he died in Henry county, Missouri, near Clinton, at the age of seventy-four years. He was a member of the Baptist church. His wife, Mary Wilhelm, died twenty-nine years ago in Missouri, aged forty-five years. Of their three children two are living. Of the ten children born to Mr. and Mrs. Albert, five sons and two daughters are living: Mildred, Etta, Jennie, Darrie, Noble, Eugene and Teddy R. The youngest, a little lad of eight years, was named in honor of President Roosevelt. Mrs. Albert is a member of the Baptist church. Mr. Albert has membership relations with the Independent Order of Odd Fellows, Lodge No. 207, of McComb and also represents a good fire insurance company.

E. E. Cornell. For six years the name of Professor Cornell was inseparably interwoven with the history of the educational interests of Oklahoma, and he was prominently before the people as the principal of the McComb public school. Here he had supervision over a four-room building with an enrollment of eighty-eight pupils, and the school is in a prosperous condition. The principal stood in the front rank of the educators of Oklahoma, and his ever broadening influence upon the educational inter-

ests of Pottawatomie county is incalculable. In the spring of 1908 Professor Cornell gave up teaching to engage in mercantile business.

Born in Arkansas, near Mountain Home, in the centennial year of 1876, he is a son of Abraham and Abbie (Melcher) Cornell, natives respectively of the states of New York and Maine. The father was a mechanic, a soldier in the Union army during the Civil war, a Republican politically, and his death occurred in Arkansas. Of the six children born to Mr. and Mrs. Cornell, three sons and three daughters, one son is now deceased. Mrs. Cornell is a member of the Baptist church. The educational training of the son, E. E. Cornell, was received in the public schools of Arkansas, and by diligent study at home, and for some years after entering business life he worked in a sawmill. Since attaining the age of twenty-four years he has been identified with school work. In political matters he upholds the principles of the Republican party, and fraternally he has achieved high rank in the Independent Order of Odd Fellows, holding membership in Lodge No. 207, and he has represented the order in the Grand Lodge. He is also a member of the order of Masons.

In McComb, in April, 1907, Mr Cornell married Blanche Pitman, who was born in Indian Territory, but was reared and educated in Oklahoma. Her father is J. H. Pitman. Professor Cornell takes a sincere interest in the welfare of McComb and Pottawatomie county, and his genial personality makes and retains him many friends.

Alpheus M. Tribbey. The name borne by Alpheus M. Tribbey is closely identified with the history of Tribbey and Pottawatomie county, and he worthily bears the name of the father of the town. He came to Oklahoma from Indian Territory, and securing a homestead in Pottawatomie county platted and laid out thereon the town of Tribbey in October of 1905, and throughout the three succeeding years he has been closely allied with its interests and upbuilding. He is of the highest type of business man, and his enterprise and ability have achieved results. He is the genial proprietor of the only hotel of the town, the Tribbey House, being well fitted for this position by two years of hotel proprietorship at Tecumseh, the county seat of Pottawatomie county, and is the proprietor of two drug stores, one in Tribbey and the other at Maud, in this county, conducting the latter in company with his son, Thomas Tribbey. In addition to all this Mr. Tribbey owns his homestead farm of one hundred and sixty acres. As a business man in many lines of endeavor, as a citizen, and above all, as the founder of Tribbey, we would preserve the record of his career among a people who have learned to honor and esteem him.

Born in Knox county, Illinois, near the town of Galesburg, June 10, 1856, he is the son of a farmer, Joseph W. Tribbey, who was born in Ohio, and was one of three brothers who served their country faithfully and well in the Union army during the Civil war. He died in Indian Territory at the age of seventy-four years, and his wife, nee Elizabeth Kibbey, passed away in Texas when aged sixty-two. Her family were also represented in the Union army in the Civil war, where three brothers fought during the conflict. At her death she left six children, and three are yet living: George W., a resident of Tonkawa, Oklahoma, and Paul Lincoln, whose home is in Cumberland Hill, this state.

Alpheus M. Tribbey, the third of the surviving sons, spent the early years of his life on a farm in Illinois, and at the age of twenty-one, after receiving a common school education, he went to Denton, Jack county, Texas, and in Tarrant county, of that state, in the following year, he wedded Mrs. Catherine (Bower) Salicinus, whose people were from Tennessee, and their children are: Martha A., Julia, whose home is in Maud, this county; Thomas H., Arthur, a student in the State University; Floyd, in the drug store with his brother, Thomas, in Maud; Roy, in school, and Virgie Lulu, at home. The eldest son, Thomas H., is a graduate of pharmacy at the State Normal, where he was a member of the college football team, and he is now the pro-

prietor of a drug store in Maud. Mr. Tribbey cast his first presidential vote for a Republican candidate, R. B. Hayes, but he now supports the principles of the Democracy.

WILLIAM WESSELHOFT, the postmaster of McComb, was born in Nazareth, Pennsylvania, in 1832, of German parents, John G. and Johanna (Monsees) Wesselhoft. The father was excellently educated in his native language, and was an educator and writer of note and was the editor of the "Old and New World," the first German paper of any importance published in the United States. This publication was widely circulated all over the United States and brought its editor into prominence as a writer. He died at the age of fifty-nine years, a Lutheran in religion, and his wife was only thirty-seven at the time of her death. She left two children, one of whom, William Wesselhoft, was well educated in two of the large cities, Philadelphia and St. Louis, completing his studies at the latter place, and afterward, for a time, he assisted his father in his work in a book store at St. Louis. At the age of twenty-one he went to Hermann, Missouri, working there on a farm and in vineyards and nurseries some thirteen years. He then, after serving as postmaster and county and circuit clerk, became secretary and treasurer of the Bluffton, Missouri, Wine Company, which transacted a large business for some time until, through some fault or act of the directory of the company at St. Louis, it was dissolved, and Mr. Wesselhoft, after working a few years in Sedalia and Columbia, Missouri, went to Wichita, Kansas, and was employed there in the city clerk's office, until he came to Oklahoma in the fall of 1891. This was soon after the opening of the Pottawatomie county to settlement, and he entered a claim here and became a notary public and the first postmaster of Burnett. At the establishment of the office at McComb in July of 1903 he was made the postmaster, and he was further one of the chief promoters of this office. The receipts for the first year of the McComb office were $322.66, and in the year of 1907 they had increased to $733.66. The office is well managed, and now has two rural routes, one of which was established eighteen months ago and the other about four months ago, and each supports daily carriers. Mr. Wesselhoft is a stanch and efficient supporter of the Republican party and voted for General Fremont in 1856, he having ever since supported its nominees. He is a Thirty-second degree Mason and an Odd Fellow, and his religious affiliations are with the Lutheran church.

He was married at Belleville, Illinois, to Emma Metz, and their two children are George and Sadie Hartman. The son is a carpenter and merchant of McComb, also a farmer, and they also had a daughter, Jessie, deceased, she having died when a young woman of nineteen at Sedalia, Missouri.

J. W. FORSTER. As the proprietor of one of the leading gin and sawmills in Tribbey, J. W. Forster is well known in the business circles of Pottawatomie county. His residence in this section of Oklahoma covers the intervening period from January 27, 1893, when he located on a homestead five miles south of Tribbey, township 7, range 3 east, section 19, and during the first ten years of his residence here operated a gin at Moral. From there he came to Tribbey and entered actively into the business life of the town. His gin was built in May, 1905, and contains a fifty-horsepower engine and boiler, housed in a room eighteen by twenty-six feet, while the mill proper is a building twenty by sixty feet, with a corn burr room twelve by fourteen feet. The capacity of the mill is thirty bales a day of ten hours, and during the season of 1907 the output of the mill was nine hundred and sixty bales of cotton.

Tribbey's popular gin and sawmill proprietor, J. W. Forster, was born in Belmont county, Ohio, September 5, 1845, and was reared on a farm in Hancock county, that state, one of thirteen children, eight sons and five daughters, born to William and Jane (Sheldon) Forster, who came originally from Maryland. They were farming people, and both died in Ohio. When he had attained the age of twenty-seven J. W. Forster married Susan Babcock, who

was born and reared in Franklin county, that state, a daughter of Jacob Babcock, and in 1881 he moved with his wife to Morgan county, Missouri. Ten children have been born to them, but only eight, five sons and three daughters, are now living, namely: Bertha, Jesse, whose home is in Portland, Oregon; Retta, and one other deceased; Lawrence, Jacob O., Nancy, Washington L., who has been a successful and popular teacher in the county for six years; Porter, an engineer, and Clara. The political affiliations of Mr. Forster are with the Democratic party, and he has fraternal relations with the Independent Order of Odd Fellows.

THOMAS F. SOUTHGATE is a banker of high standing in the commercial circles of Pottawatomie county, and is the assistant cashier of the First National Bank of Wanette, the successor of the old Bank of Wanette and of which he was the first cashier. He was born in Kentucky on the 25th of January, 1866, and he was reared on the old homestead of his father, B. Southgate, in that state, attending both its common and high schools. (See his brother George's sketch for family record.)

In 1892 he came to the then territory of Oklahoma and located four miles east of Shawnee, in Pottawatomie county, and this farm he yet owns and has it improved in a fine manner and well supplied with valuable stock. It is a valuable farm of rich and fertile land and conveniently located near the growing town of Shawnee. When the old bank of Wanette was organized in 1903 Mr. Southgate was made its first cashier, but previously he had served as Assistant cashier in the First National Bank of Tecumseh, so that he is a banker of long standing and experience and has made a success of the business.

In January of 1902, in Tecumseh, Mr. Southgate was united in marriage to Hattie Durham, who was born in Texas but she was reared and educated in Tecumseh, Oklahoma, and is a daughter of William and Sarah Durham, prominent and well-known citizens of Mobeetie, Texas. Mr. Durham is well remembered as a former treasurer of Pottawatomie county. Mr. and Mrs. Southgate have had two sons, but the first born, W. M., died when but two years old, and the second, Thomas F., Jr., was born January 24, 1907. Mr. Southgate is a Mason, a member of the chapter and commandery and India Temple in Oklahoma.

DR. R. M. C. HILL. Among those who have attained prestige in the practice of medicine and surgery in Oklahoma stands Dr. R. M. C. Hill, of McLoud. He is one of the prominent representatives of the profession of medicine. He is a graduate of the class of 1883 at the Hahnemann Medical College, of Chicago, Illinois, and three years later he graduated at the Toledo (Ohio) Medical College.

The Doctor is a native of Prospect, Marion county, Ohio, born thirty-seven miles north of Columbus, June 19, 1860. His father, the Rev. Caleb Hill, was a well-known minister in the Methodist Episcopal church and was a native of Delaware county, Ohio. The Hills are noted for their patriotism and loyalty to their country, and they have been represented in the Indian, Revolutionary and Civil wars. Of the same family is Senator Hill, of New York, and General Hill, both men of note. Rev. Caleb Hill died at the age of seventy-one years, leaving three children: Mrs. J. W. Freeman, of Prospect, Ohio; Mrs. C. W. Moots, of Toledo, that state, and R. M. C.

The early years of the life of Dr. Hill were spent in traveling a Methodist circuit, thus attending various schools, and later pursuing post-graduate work at the University of Tennessee. He received the honorary degree of Master of Science in 1888 at the Ohio Normal University, of Ada, Ohio, now the Ohio Northern University, and was elected a member of the Toledo Medical faculty, but ill health prevented him from accepting the honor. He was a member of the visiting staff of the Toledo Protestant Hospital, and leaving that city he went to Knoxville, Tennessee, where he was in practice for nine years. In that time he was made professor in the Tennessee Medical College of Knoxville, was also the secretary and treasurer and a member of the medical staff of the Tennessee

Medical and Surgical Institute, and was also physician in charge of the Mt. Rest Home for Aged Women, of Knoxville. But again ill health made it necessary for him to seek a change of climate, and resigning his various positions in Knoxville, he went to Delphos, Ohio, where he was in practice for three years. Going then to the northwest in search of health and strength, he was at St. Paul, Minnesota, for two years, and from there he came to McLoud, Oklahoma. He is now professor of principles and practice of medicine in Oklahoma Medical College, of Oklahoma City, and president of the Canadian Valley Medical Association.

Dr. Hill has been twice married, wedding first at Lafayette, Ohio, Alice Mehaffey, and their only child is Miss Alice M. Hill. On the 26th of November, 1907, in Oklahoma, he wedded Mrs. Rosa B. Blalock, from Tennessee. Dr. Hill is a stanch and true Democrat, and was at one time a candidate for the legislature. He has served as a delegate to many of its conventions, and he is a member of the Odd Fellows' order and the Court of Honor. He belongs to the Methodist Episcopal church, and his wife to the Baptist.

GEORGE A. STROUSS. One of the most beautiful resorts in Oklahoma, known as The Dam, the property of George A. Strouss, who owns half interest with John Provvens. It is located on the North Canadian river at the Big Dam and Mill, and is a most delightful place for fishing, bathing and boating, and is unsurpassed in beautiful scenery. The river is a beautiful stream fully six miles in length, with a safe, sandy bottom at the resort for bathers, and ten boats are kept in excellent repair for those who care to enjoy the pleasures of boating. The old grist mill is one of the most picturesque scenes along the river, and is a favorite spot for picnics and pleasure parties, and at the resort there is also a dancing pavilion twenty-two by forty feet. Mr. Strouss has been a tireless worker in promoting the interests of The Dam, and his efforts have been amply rewarded for the resort has become famous throughout Oklahoma and is almost unsurpassed in beautiful scenery.

George A. Strouss is a native of Germany, born there forty-five years ago, and he was a lad of seven when he came with his parents to the United States. The family first located in Brown county, Kansas, near Hiawatha, from whence they later moved to Nemaha county, that state, near Seneca. At the opening of Oklahoma to settlement Mr. Strouss made the race and secured a claim near the present Oklahoma City, but this land was afterward contested by a "sooner," and some years later Mr. Strouss sold it and bought his present place. He built the mill there and has splendidly improved his farm of one hundred and thirty-five acres.

In Oklahoma, in 1893, he was united in marriage to Mary Crawford, who was born in Kentucky, but was reared and educated in this state, and their two children are Eva and George. Mr. Strouss gives his political support to the Democratic party. Mrs. Strouss is a teacher and a member of the choir in the Sunday-school of the Union Sunday school.

JAMES G. EVANS, proprietor of Sunny Slope Farm in Earlsboro township, was born in Cherokee county, Georgia, near Canton, on the High Tower river, July 16, 1852, a son of John Miller and Jane (Garvin) Evans, natives respectively of Georgia and South Carolina. The father, who was a farmer, died in 1854, a member of the Baptist church, and the mother died in 1886, leaving three children, but only the two now living are James G. and Artie, the latter a resident of Georgia.

James G. Evans spent the early years of his life on a Georgia farm, but in 1878 left the state of his birth for Erath county, Texas, locating fifty miles west of Fort Worth, near Stephenville and Bluffdale. After eight years there he came to Oklahoma and secured a claim of one hundred and sixty acres one mile from Norman, but after pre-empting the land and farming it for some time he went into the Creek Nation of Indian Territory and from there came to Pottawatomie county in 1903 and

secured his present homestead, now known as Sunny Slope Farm. The farm contains one hundred acres of good land, much of it improved and under cultivation, and the homestead is located three miles east of Shawnee. In addition to this farm he also owns a good business building in Holdenville, Oklahoma.

At the age of twenty-one years Mr. Evans was united in marriage to Margaret Turner, who has proved to him a loving companion and helpmate in the establishment of their home in the new southwest, and their union has been blessed by the birth of eight children: Otilla Belle Dennis; Albert S., whose home is in Seattle, Washington; Artemas Musson; Yuree Alice; Lula Maud Schneither, of Shawnee; Nora Oklahoma, whose birth occurred in this state; James William, and Joseph Ellsworth. Mrs. Evans is a daughter of Hayden and Polly (Cantrell) Turner, North Carolina people, and the father was a Confederate soldier during the Civil war. They are members of the Christian church. Mr. and Mrs. Evans are respectively members of the Baptist and Christian faith, and Mr. Evans is a Republican in his political affiliations.

Dr. W. W. Farris, one of the best known of the medical practitioners of Moral, is a graduate of the College of Physicians and Surgeons of St. Louis, Missouri, with the class of 1907, and in the same year of his graduation he came to Oklahoma and began practice at Moral, where his large patronage is indicative of his skill and ability.

The Doctor was born in Franklin county, Illinois, near Mulkeytown, April 6, 1878. His father, James K. Farris, is an Illinois farmer and a native of Tennessee, and his mother is Julia (Wade) Farris, and in their family were twelve children, of whom five sons and five daughters are yet living. The family are Methodists in religion, and the father is a member of the A. F. and A. M.

Dr. Farris was reared to the life of a farmer, and passing from the common schools to Ewing College, in Illinois, he studied in that institution for some time and later for four years was a successful school teacher. He is a member of the order of Masons and of the Modern Woodmen of America, and his politics are Democratic. He is a young man of most pleasing personality, and in his practice he has already shown that he is well informed concerning the principles of medicine and surgery. On May 12, 1908, he married Miss Maude McGinnis, who was born in Franklin county, Illinois, and educated in the common schools and at Ewing College, where she taught four years.

Lee Troutman, the clerk of Burnett township, has served in this official capacity for three terms, elected in 1902, and his administration has been characterized with efficient service. Born in Westmoreland county, Pennsylvania, near Mount Pleasant, forty-nine years ago, he is a member of a German family and a son of Isaac and Eliza (Hiner) Troutman, both of whom were also born in that state. There were nine children in their family, four sons and five daughters, but Lee and a sister are the only representatives in the west, her home being at Enid, Oklahoma.

Lee Troutman was a boy of nine at the time of his parents' removal to Benton county, Iowa, where he was reared on a farm, and he was afterward in Missouri and Nebraska for a time. In 1881 he secured a homestead claim in Graham county, Kansas, on which he built a sod house and improved his farm of one hundred and sixty acres. While in that state, in February, 1890, he was married to Josie Newkirk, who proved an excellent helpmate in establishing the new home in the west. She was born in Clinton county, Iowa, but when nine years of age went with her parents to Graham county, Kansas, and was reared and educated in that then frontier settlement, attending a pioneer sod schoolhouse near her home. Her father, Abraham Newkirk, served in an Iowa regiment during the Civil war, and he is now living in Idaho, but her mother, Orpha (Gregory) Newkirk, died in Kansas.

After a number of years in Kansas Mr. and Mrs. Troutman left their farm there to be-

gin anew in the rapidly developing section of Oklahoma, and they first established their home on a partially improved farm in Pottawatomie county, but selling their land after a time they moved to Tribbey and built a home there. Mr. Troutman is an excellent contractor and carpenter, and commands a large trade in those lines. In their family are four sons and four daughters: Orpha, Goldie, Martha, Luther, Newkirk, Ethel, Alfred and Le Roy. Mr. Troutman is a Socialist politically, an active worker for the party, and both he and his wife are earnest members of the Church of Christ.

HON. JOHN F. LINN, present postmaster at Dale, Pottawatomie county, Oklahoma, has had more than the ordinary experiences which come to men, and his career is probably not at its high tide yet. He was born in Highland county, Ohio, near Hillsboro, January 24, 1844, of a good family, who early taught him the usefulness of industry and honesty. He is the son of John S. Linn, a native of Virginia. The mother was Margaret Brown, born in Ohio. They moved to Knox county, Illinois, locating near Galesburg, where the father died, aged fifty-two years. He was a farmer all of his life. His good wife died at Guthrie, Oklahoma. Two sons and three daughters were born to this worthy couple, of whom Hon. John F. was the fourth child. He accompanied his parents to Illinois, and there attended the public schools. When President Lincoln called for more troops in 1862, to suppress the Rebellion, he enlisted in the Eighty-ninth Ohio Infantry Regiment of volunteers, with him who was later known as Governor Foraker and who then was but seventeen years of age. Mr. Linn accompanied Sherman on his famous "March to the Sea," back through the Carolinas to Washington, participating in the grand review, July, 1865. He was honorably discharged with a splendid military record. He left Illinois and went to Furnas county, Nebraska, where he homesteaded two years, and in 1885 returned to Knox county, Illinois. He again was seized with the "western fever," and went to Hodgeman county, in western Kansas. remained until 1890, when he went to Oklahoma, locating in Lyon county, and there remained for two years, having held the office of county commissioner by appointment of Governor Steele. He served two months and was elected member of the first territorial legislature, in the autumn of 1890, when the Territory of Oklahoma was organized. He removed to Mullhall and subsequently to Kingfisher, Oklahoma. At the last named place he was made the superintendent of an ice plant, which he managed until 1895, when he moved to Perry, Oklahoma, where he remained three months, moving to Shawnee in 1896. Here he embarked in the hardware business, but later moved to his farm three and one-half miles from Dale, where he has a fine farm of a quarter section of land, all well improved, and of considerable value.

Mr. Linn was first married in Illinois, to Sarah K. Housh, a native of Illinois, who died in 1881, in Knox county, Illinois. He was married the second time, in 1891, at Guthrie, Oklahoma, to Dora B.. Bowers, whose people came from Ohio to Nebraska. His children are as follows: Bertha, Earl, Raymond, Theodore, Lillie, and one deceased. By the second marriage he was the father of one child—Harold, who died at the age of fourteen years.

Politically Mr. Linn is a stanch Republican, who is a great admirer of President Roosevelt and his public policy. He is an honored member of the Independent Order of Odd Fellows and in his community is esteemed for his many virtues and public spirited disposition. He received the appointment as postmaster at Dale, Oklahoma, January 20, 1908.

N. A. J. TICER is one of the three commissioners of Pottawatomie county and one of the leading merchants of Moral, a prosperous and rapidly growing town on the railroad four miles southeast of Tribbey. He was elected to his present office on the 17th of September, 1907, and has proved a safe and careful county official. Oklahoma has been his home for twelve years, and he is, therefore, numbered among its

pioneers, his first home being on a claim or farm four miles west of Moral, but later he moved into the town and opened his store of general merchandise, carrying a full line of dry goods, boots and shoes, groceries and many other articles, and his manly and straightforward dealings have secured him an excellent patronage and many warm friends.

Mr. Ticer was born in Stone county, Arkansas, April 6, 1861, and is a member of a very old family of that state. His father, Hugh Clark Ticer, was born in Alabama, and was a soldier in the Confederate army during the Civil war. He was a lifelong farmer, a Democrat politically and a member of the Methodist Episcopal church, South, dying in the faith of that denomination in June of 1898. His wife, Sarah Caroline Rorie, was born in North Carolina, and at her death she left five children, one of whom, James M., is a resident of Caddo county, Oklahoma.

Another of her sons, N. A. J. Ticer, was reared to the life of a farmer, and he attended the public schools near his home during his boyhood days, but his more specific training was received by actual business experience. At the age of nineteen he was married to Rosa Lawson, formerly of Arkansas, and she died on the 20th of March, 1884, leaving two children, one of whom is John W. Ticer. His second wife, Zonietta Cartright, was also a native of Arkansas, and at her death, April 11, 1899, she left four children: Henry Allen, Rosa Pink, Mary Caroline and Newton Ed. On the 9th of January, 1905, Mr. Ticer married his present wife, Sarah Weatherford, whose birth occurred in Independence county, Arkansas, and by this union two children have been born: Lillie Jane and Oklahoma. Mr. Ticer is one of the leading local workers in the Democratic party, which he has represented in several conventions. He was a member of the territorial convention of 1905, and was a delegate to the state convention at Muskogee in 1908. He is a prominent Odd Fellow, a member of Moral Lodge No. 47, in which he has served in all of the offices and as a representative to the Grand Lodge; also a member of the A. F. & A. M. at Moral, No. 33. When he was sixteen years of age, Mr. Ticer united with the Methodist Episcopal church South, and has been an active member since, taking part in Sunday school and church work. Mrs. Ticer is also a member of the same church.

James Hutchinson, manager of the Cary & Lombard Lumber Company, of Wanette, has been a resident of Oklahoma for twenty-four years, and since the 16th of March, 1904, has been identified with the interests of Wanette. He was born in Petersburg, Virginia, forty-four years ago, and receiving a general literary education he entered the pharmacy department of Columbian University, Washington D. C., and graduated with the class of 1884. Shortly after his graduation and during Grover Cleveland's administration he was appointed the government physician of the drug department at Fort Reno, Oklahoma, and continued in the government employ for four years. From there he went to Perry, in this state, where he had a good position as a druggist for five years, and for some time after leaving that city he was in Paul's Valley. It was from there that he came to Wanette in 1904, and since allying his interests with those of this city he has not only been active in its business life as the manager of the Cary & Lombard Lumber Company, but has also been prominent in its public life, serving for three years as the city clerk and is the present city treasurer.

Mr. Hutchinson is a son of Virginia parents, Samuel C. and Margaret (Bruce) Hutchinson, and on the paternal side he is of Scotch descent. The father died in Petersburg, of the Old Dominion state, in October, 1891, where he had long been a prominent and successful physician, and his widow is now living in Wanette with her son. James Hutchinson was the second born of their eleven children, five sons and six daughters. During his residence in Perry, Oklahoma, in 1898, he married Mary A. Burch, who was born in San Antonio, Texas, to J. E. and Mary (Huntley) Burch. The father served the south as a Confederate soldier during the Civil war.

Mr. Hutchinson is a Democrat politically, and his fraternal relations are with the Masonic order, Lodge No. 88, in which he has filled all the offices; the Independent Order of Odd Fellows, Wanette Lodge No. 87; the Benevolent and Protective Order of Elks, Guthrie Lodge No. 426; the Knights of Pythias, Lodge No. 7, and the Modern Woodmen of America. Both he and his wife are members of the Baptist church.

J. R. Smith, the assistant cashier of the Maud State Bank, is popular and well known in both the business and social life of this community and a young man worthy of note in the history of his town and county. He has been prominently identified with the interests of Pottawatomie since his arrival here in 1905, and he is a native son of Tennessee, born in Madison county in 1874, a son of E. E. and Virginia (Lewis) Smith, natives respectively of Tennessee and Virginia, and members of prominent old southern families. The father, of Scotch-Irish ancestry, was a lifelong tiller of the soil, and was a worthy member of the Baptist church. Mrs. Smith died at the age of sixty-seven, after becoming the mother of thirteen children, and seven of this once large family, five sons and two daughters, are yet living.

On a farm in Tennessee J. R. Smith attained to manhood's estate, in the meantime receiving a good education in its public schools and in the Robertson Christian College at Hudson. For three years after the completion of his education he taught in the schools of Oklahoma, two years near Tecumseh and the remainder of the time east of Shawnee. During eight months he also served as the assistant to the postmaster at Maud, George McEnis, and he later accepted the position of assistant cashier of the Maud State Bank, one of the reliable financial institutions of Pottawatomie county. In his official capacity he is accommodating, genial and pleasant, and is popular both with the patrons of the bank and its officers. He is a member of the Woodmen of the World and the Christian church.

George G. Boggs was born April 5th, 1869, at Boonesboro, Iowa. His parents moved to Nebraska when he was an infant, the family locating on a homestead near Blair, in Washington county, in which George G. spent his early life and where he lived until 1893. His parents were John W. Boggs and Carrie S. Boggs, whose early lives were spent in Clarion county, Pennsylvania. His mother's maiden name was Carrie S. Gardner. John W. Boggs was a soldier of the Civil war, being a member of the Seventieth Illinois Infantry. In later years he served as sheriff of Washington county, Nebraska, for four years and was postmaster at Blair during the administration of President Benjamin Harrison.

George G. Boggs was educated in the public schools of Blair, graduating from the high school in 1888. He then attended Doane College at Crete, Nebraska for two years and afterwards the law department of the Iowa State University and in 1892 was admitted to the bar. In 1893 Mr. Boggs was married to Carrie A. Lawson, of Blair. They have one son, Logan E. Boggs, who was born in Shawnee, Oklahoma, in March, 1897, to which place his parents had removed in 1895.

It was in Shawnee that the most thrilling and perhaps important events in the life of Mr. Boggs occurred. Mr. Boggs had been active in Republican politics and upon the election of the late President McKinley was appointed postmaster at Shawnee. After serving but a few months several valuable registered letters disappeared from his office and could not be found. Investigations were made but with no results and the matter appeared to be dropped. The community was shocked one day in the following spring by the announcement that their postmaster had been arrested, charged with the crime of embezzling registered letters. After several months Mr. Boggs was removed from office and tried in the Federal court at Tecumseh, Oklahoma, and convicted upon the testimony of handwriting experts, hand-writing being the point upon which the Government based the prosecution. Upon conviction Mr. Boggs was sentenced to serve four years in the Federal prison at Ft. Leavenworth,

Kansas. The case was appealed to the higher courts and Mr. Boggs was again defeated. When all recourse to the courts had been exhausted and it looked as though there was no hope of Mr. Boggs avoiding serving a term in prison, a young man who had been a clerk in the postoffice at Tecumseh, Oklahoma, at the time the letters were lost, went to the postoffice authorities and confessed that the letters had been sent to his office by mistake and that he had stolen them. Upon this confession Mr. Boggs was at once released from bonds and the charge against him dismissed. The long drawn out trials in court had impoverished Mr. Boggs but he had many good friends who were anxious to aid him and as a result he, in a very short time, organized the Asher State Bank at Asher, Oklahoma, of which bank Mr. Boggs became president and which he made one of the most prosperous and solid in Oklahoma. This was in the fall of 1901. Mr. Boggs remained in Asher until the fall of 1906, when he removed to McLoud, Oklahoma, and became president of the Bank of Commerce there. Through all Mr. Boggs' fortunes, good and bad, he has had the support and advice of a true and good wife, who during the four years that he was in court supported the family by acting as bookkeeper in the Shawnee National Bank at Shawnee, Oklahoma, she having qualified herself for such work in early life. Through Mr. Boggs trials and delays in court he had many friends in position to aid him, especially among the officials of the courts, who believed him innocent, and he was never deprived of his liberty, even at times when there was no provision for giving bonds.

Mr. Boggs has two brothers and one sister. The two brothers are E. E. Boggs, a passenger conductor on the Rock Island Railroad, residing at Shawnee, and Frank W. Boggs, an attorney, who also resides at Shawnee. The sister, Miss Jo E. Boggs, resides with her parents at Longbeach, California. Mr. Boggs and his wife are members of the Presbyterian church. Mr. Boggs is a member of the Masonic fraternity and Mrs. Boggs of the Order of the Eastern Star, and is the Worthy Matron of her chapter.

MOSES M. HENDERSON. Throughout nearly his entire identification with the interests of Oklahoma, Moses M. Henderson has been connected with journalism, and is now at the head of two of the leading papers of Pottawatomie county. Shortly after his arrival in Tecumseh he organized and launched the Tecumseh *Standard*, an independent paper which has done much towards purifying politics and fighting grafts and ring rule. Mr. Henderson is a stanch and true Prohibitionist, and during the last election had charge of that movement in the county, making by voice and pen a vigorous campaign and contributing much to the success of the cause. He has never desired the honors of emoluments of office, but stands for right and the public good. Mr. Henderson also owns the *Wanette Winner*, which is conducted on the same independent lines as the *Standard*, and is edited by his son Lewis, who is only a boy of nineteen, but who has already displayed journalistic ability which gives promise of a brilliant future.

Mr. Henderson was born in Tennessee, near Chattanooga, September 20, 1861, a son of J. W. C. and Mary (Clift) Henderson, both of whom were born in Tennessee. The father was a member of an old Scotch-Irish family of that commonwealth. After completing his education in the public schools the son Moses studied law for a time, finally abandoning it to engage in a mercantile capacity. He continued in that business for ten years, and in 1901 came to Oklahoma City, and six months later to Tecumseh. He married, in 1889, Miss Emma Ragsdale, a daughter of Frank and Emily (McMillen) Ragsdale, of Chattanooga, Tennessee, and their two children are Frank and Mary. The family are Presbyterians.

GEORGE L. ROSE. Although young in years, George L. Rose may be rightfully termed one of the pioneers of Oklahoma, for he came to Tecumseh the day it was opened for settlement, in September, 1891. If a complete account of the events which form the history of Tecumseh and its vicin-

ity were written the name of George L. Rose would appear frequently and prominently in connection with the leading events. His first work here was as an educator, teaching in the public schools four years. He held the third first grade teacher's certificate issued in Pottawatomie county. During the two years following his educational labor he was manager for a mercantile firm. He then drifted into the abstract, farm loan and insurance business, with which he is still identified.

In 1903 he organized the Bank of Wanette and was made its president. This bank and the First National Bank of Wanette later consolidated. In 1903 he was also made president of the First National Bank of Holdenville, and in 1905 he was elected president of the First National Bank of Tecumseh, the oldest bank in Pottawatomie county. The banks with which he is connected have been very successful. Mr. Rose is a strong believer in good agricultural lands for safe and remunerative investments, and has become the owner of considerable good farming land in several counties in the state.

Mr. Rose represents an old southern family originally from Virginia, from whence they removed to Kentucky, the birth place of Granville P. and Josephine (Stephens) Rose and their son, George L., who was born February 1, 1873. He is a prominent Mason, affiliating with the blue lodge of Tecumseh and with the Shrine of Oklahoma City. He married, in 1899, Jimmie L. Strain, a native of Texas and daughter of D. W. Strain. They have two daughters, Addie and Josephine, born respectively on the 1st of January, 1903, and the 15th of June, 1906.

Rev. Hildebrand Zoeller, O. S. B. Under the pastorate of the Rev. Hildebrand Zoeller, O. S. B., the church at Shawnee has made notable progress and improvement, both in membership and material betterment and also in the widening of its sphere of useful and uplifting influences. Father Zoeller took charge of the church at Shawnee in 1905, and since that year has had the satisfaction of seeing a new church edifice built for his congregation. A scholarly and broad-minded man, he is popular with all classes of citizens in Shawnee, and his work has met with the kindly co-operation of many outside the membership of his church.

Father Zoeller was born in Germany in 1873, son of Martin and Mary Zoeller, who emigrated from the fatherland to the United States in 1888, and after living a few years in Maryland moved to Oklahoma Territory in 1892, so that the family have been identified with this new state almost from its first years. Hildebrand was educated in the public schools and the Sacred Heart College. At the St. John's University in Minnesota he graduated with the degree of B. S., and was ordained to the ministry in that state in 1900. Before engaging in parish work he taught for a time in St. John's University, and was then in charge of several parishes in Minnesota before he removed to Oklahoma and began the work in Shawnee, which has been blessed so abundantly. He is in complete sympathy with the movements undertaken for the civic welfare of this growing city, and is a public-spirited citizen as well as a priest devoted to furthering the interests of his own sect.

Vernon H. Gee has been identified with the mercantile life of Shawnee since 1901, and is the active managing partner in the firm of Madden, Jarrel & Gee, dry goods merchants. He is a well known business man, the treasurer of the Chamber of Commerce, and active in all interests for the upbuilding and advancement of Shawnee.

Mr. Gee was born in Granville, Texas, January 21, 1874, where his father, Dr. J. C. Gee, was a practicing physician for a number of years, having removed to Texas from his native commonwealth of Virginia. During the Civil war he served as a surgeon in the Confederate army, and his death occurred in 1881, aged fifty-five years. Mrs. Gee, nee Agnes Lewis, was a native daughter of Tennessee.

After completing his educational training in the public schools of Texas, Vernon H. Gee entered upon his business career as a clerk in a dry goods store in Greenville, but leaving that city in 1896 he was for three

years the proprietor of a store in Denison, Texas, and going thence to Vinita, Indian Territory, he formed a partnership with J. W. Madden, of Denison, and A. J. Jarrel, of Temple, Texas, in the dry goods business. They were actively identified with the business life of that city until the firm of Madden, Jarrel & Gee transferred their interests to Shawnee in 1901 and have since been leading merchants in this city.

In 1898 Mr. Gee married Miss Delle Yocom, a daughter of J. D. Yocom and a native of Denison, this state. Their only child is a little daughter, Dorothy, born September 14, 1900. Mr. Gee is popular in the business, political and social circles of Shawnee, and is a member of the B. P. O. E.

HARRY V. FOSTER. Since 1892 Oklahoma and Tecumseh have claimed Harry V. Foster among their influential residents, prominent in the business, political and social life. But he is perhaps best known in connection with journalistic interests, as the editor and proprietor of the *Democrat*, one of the leading papers of Oklahoma. He is a native son of the west, born in Blue Earth county, Minnesota, April 4, 1869, a son of F. Anson and Henrietta (Van Brent) Foster, both natives of the state of New York. The mother represented an old Holland Dutch family, the grandfather having owned the ground on which Trinity church now stands and valuable property on Wall street, New York. F. Anson Foster moved when a young man to Wisconsin, and after the Civil war went to Minnesota and embarked in a mercantile business. He was an active politician, and his home is now in California.

After attending the public schools in Mankato, Minnesota, and a college at Janesville, Wisconsin, Harry V. Foster was engaged in the insurance business for a time. On the 3d of July, 1892, he arrived in Tecumseh, Oklahoma, and soon afterward launched the *Democrat*, an influential paper. He is a popular journalist, an active factor in politics, having served his city as a member of its council, and has been president of the Farmers Bank since in June, 1907. He has been connected with this institution since its organization, first as its vice-president.

On the 12th of May, 1900, Mr. Foster married Miss Mattie Metcalf, a native of Missouri, and their only son, Max H., was born in 1906. Mr. Foster has membership relations with Lodge No. 13, A. F. & A. M., with Lodge No. 211, I. O. O. F., and with the Sons of the American Revolution.

B. C. HANSON has gained a wide reputation through his connection with the Union Co-Operative Company, of which he is the ex-secretary. The institution is strictly co-operative and of state-wide operation, and its special feature is that only members of unions can hold stock. Mr. Hanson was born in Germany, June 18, 1869, a son of H. N. and I. (Anderson) Hanson, both of whom were also natives of the fatherland. In 1882, when but a boy of thirteen, B. C. Hanson came to the United States and to Iowa. At that time he could not speak a word of English, and he first attended school and farmed. By selling books and other occupations he saved enough money to enable him to pursue a three years' course in the Iowa Wesleyan University, where he studied for the ministry, but on leaving the university he studied engineering and for two years was connected with the Chicago, Burlington & Quincy Railroad at Burlington, Iowa. For several years he also traveled over the country as a civil engineer, finally, in 1892, drifting to Galveston, Texas, where he farmed in the southern part of the state for eight years and was also the deputy sheriff of Walla county. At the outbreak of the Spanish-American war he enlisted in Company I, First Texas Infantry, and served through the entire conflict. Returning at its close to Galveston, he was in that city during the memorable storm, in which he lost all his possessions, and in June, 1901, he went to Elgin, Texas. In 1902 he went to Durant, Indian Territory, where he farmed until his removal to Colgate, that state, in 1905, and while there was elected the state secretary and treasurer of the Farmers' Union. From that city he came to Shawnee in 1906, and is now prominently connected with the Union Co-operative Company.

In 1893 Mr. Hanson married M. M. Schaeper, a native of Texas, and of German parentage. Their two sons are Edward, born on the 4th of August, 1899, and Charles, born January 8, 1905. The family are members of the German Lutheran church, and Mr. Hanson is also identified with the fraternal orders of Knights of Pythias, Odd Fellows and Eagles.

Sam Elzo, the proprietor of the Elzo Gin at McLoud, was born in Detroit, Michigan, in 1870, a son of Ed and Sarah (Wheeler) Elzo, the former born in Yorkshire, England, in 1833, and the latter near Dublin, Ireland, in 1844, and they are now living at the Isle of Pines on the coast of Cuba. The mother's parents, however, were Germans, who were visiting near Dublin at the time of their daughter's birth. The father was reared on the coast of Cuba, and coming to the United States became a real estate dealer in Memphis, Tennessee. They were married in Pennsylvania, near Pittsburg, and became the parents of five children, two sons and three daughters, but only four are now living—Sam, Anna, Hetty and William, the latter with his parents in Cuba.

During the Spanish-American war, on the 17th of March, 1898, Sam Elzo enlisted for service in the Third Tennessee Infantry, Company I, and served until the 28th of February, 1899, in the meantime taking part in the battle of San Juan. After his honorable discharge from the service he returned to Memphis, Tennessee, and from there came to Oklahoma and purchased, in 1902, the gin which he now owns. This mill was built by the Craddock Brothers in 1891, but new machinery has since been installed throughout, being now operated by the Smith & Munger gin outfit, including a sixty-five horse power engine, which was put in in 1903. The gin has a capacity of thirty bales of cotton a day of ten hours, and during the season of 1907 it ginned and baled 2,042 bales of cotton, an amount equal to three ordinary gins. Its proprietor, Sam Elzo, is one of the best known business men of Pottawatomie county.

He was married in Shawnee, Oklahoma, in 1903, to Pearl Taylor, who was born in Sabetha, Kansas, and she was educated both in that state and in Oklahoma, a daughter of Joseph Taylor, who was born in England, and coming to the United States moved from Iowa to Kansas. Mr. and Mrs. Elzo have one son, Neal Ed, three years of age. Mr. Elzo is both an Odd Fellow and a Mason.

Samuel David Dodson, M. D. Among the leading medical practitioners of Pottawatomie county is Dr. Samuel D. Dodson, who was born in Rockford, Tennessee, in 1855, a son of William F. and Amanda (Forest) Dodson, both of whom were also born in that state. The father was a Tennessee farmer and a Union soldier of the Civil war, and his death occurred at Marshfield, Missouri, at the advanced age of eighty-six. His wife yet survives him and has reached the age of seventy-eight, a worthy member of the Christian church.

Dr. Dodson, the fifth born of their eight children, went with his parents to Polk county, Missouri, in his early life, and he received his literary training principally at Bolivar, that state. From Missouri he came to Indian Territory, locating at Eastman, where he began the study of medicine under the preceptorship of Dr. D. J. Farmer, a prominent and successful physician there at that time. Passing from his instructions to the University of Tennessee, Dr. Dodson graduated from that well known institution with the class of 1895, and for two years thereafter he was in practice at Eastman. He was later in practice at Remus and at Maud, until finally, in the spring of 1908, he located at Sacred Heart, where he is rapidly building up a large and remunerative practice.

At Paul's Valley, in the early seventies, the Doctor married Sena Hilbrant, who at her death left two children, Elvas and Esley, and for his second wife he married in 1882 Martha C. Wood, who died after becoming the mother of four children—Amanda, Ben, Martha and Ruth. On the 17th of June, 1902, at Paul's Valley, Dr. Dodson wedded Eufallia Chambers, a daughter of D. R. and Tennie (Rowe) Chambers. Mrs. Dodson was reared and educated in Texas. The Doctor and his

wife hold membership relations with the Odd Fellows and the Rebekahs, and he is also a Mason and a member of the Baptist church. In connection with his profession he is a member of the Medical Association of Oklahoma.

JOHN BLEDSOE. The name of John Bledsoe is closely associated with the early as well as much of the subsequent history of Pottawatomie county, and he is also honored as a soldier of the Civil war. Twenty-four years ago he sought a home in the Indian Territory, and during the past eleven years he has resided on his present farm in Avoca township, located midway between Maud and Asher.

Mr. Bledsoe was born in Jackson county, Missouri, July 25, 1839, a son of Abraham and Elizabeth (Warden) Bledsoe, the former a native of Kentucky and the latter of northern Missouri. In their early life they moved to Texas, where the mother died before the war, but the father survived many years and reached the age of three score years and ten. During four years of the Civil war he served as a Union soldier, and four of his sons, William, John, George and Hezekiah, also served their country faithfully and valiantly during that conflict. Another son, Francis Marion, was killed by bushwhackers when a young lad of fourteen.

From Missouri John Bledsoe moved to Grayson county, Texas, purchasing one hundred and sixty acres of unimproved Indian land near Sherman, and from there in 1884 he came to the Chickasaw Nation in Indian Territory. He is a member of the Grand Army of the Republic, for he served throughout the Civil war as a member of the United States army, and for two years previously was a member of the Missouri State Militia.

In Barry county, Missouri, Mr. Bledsoe was united in marriage to Lucinda, a daughter of William and Susan (Dial) Dye, natives respectively of Iowa and Missouri, but the mother is now deceased, dying at the age of fifty years. One of their sons died in the hospital at Cassville, Missouri, as a result of his army experience. Seven children have been born to Mr. and Mrs. Bledsoe—Lafayette, William, Esther, Columbus, Matthew, Ida, and one, Hiram, who died at the age of twenty-two years. The political affiliations of Mr. Bledsoe are with the Democratic party.

ARTHUR DIMMERS, who has the distinction of being the only Republican member of the city council of Shawnee, Oklahoma, representing the Fourth ward of the city, was born near Hillsdale, Michigan, January 25, 1858, a son of Charles F. Dimmers, born of German parents, in Virginia. The mother was born in Connecticut, her name being Worthington, but now lives at Hillsdale, Michigan, while the father is deceased. He was by occupation a farmer; originally a Lutheran in his religious faith he later became a Methodist.

Arthur Dimmers of this biography, was reared in Michigan, where he developed a good bodily constitution and at twenty years of age he removed to Topeka, Kansas, where he soon found employment as a fireman on the Santa Fe Railroad. After living in Topeka for thirteen years he moved to Arkansas City, Kansas, and later to Guthrie. He remained there until 1898, then went to Shawnee. He has been in the employ of the Santa Fe railroad since 1878 and is now one of their oldest as well as most trusty engineers, having commenced when a young man as fireman, and steadily worked his way to the responsible position he now holds with this great system. He has been economical and has accumulated a handsome property, possessing a good home, where he is surrounded by the comforts of life. Republican in politics, he was elected in April, 1906, as councilman by a good majority and has given full satisfaction in the administration of ward and city affairs.

Mr. Dimmers was first married at Newkirk, Oklahoma, to Effie Kies, born at Hillsdale, Michigan, by whom he had one daughter, now the wife of A. J. McGuire, a brother of Hon. Bird McGuire, member of Congress. For his second wife Mr. Dimmers married Kate Hartzell on January 4, 1901.

Mr. Dimmers is a large man and fully six feet in height. He is, by reason of his

manly ways, the friend of a legion of his fellow workmen as well as the citizens of his home town, who have placed him in charge of many local duties. He having long been a railway man, is used to, and insists on all matters being attended to on time and in a proper manner.

O. F. SHAW, the police judge of McLoud, was born in Saratoga county, New York, the 4th of June, 1839. His father, Edwin Madison Shaw, was born in Ireland of Scotch-Irish parents, and coming to America he became a noted criminal lawyer of his day in Saratoga. Going later to Butler county, Iowa, he was one of the pioneers of that state, and his death occurred there at the age of sixty-four years, dying in the faith of the Methodist Episcopal church. His wife, who was before her marriage Elizabeth Whitford, was born in Massachusetts, and she was a granddaughter of a Revolutionary soldier, Abel Hatfield. Her death occurred at the age of seventy-five, after becoming the mother of four sons and four daughters, but of this once large family only three are now living, a son and two daughters in Iowa.

O. F. Shaw, one of the three surviving members of this family, was a young man of seventeen at the time of the removal of the family from New York to Butler county, Iowa, and from there in 1873 he went to Harlan county, Nebraska, where he secured a government homestead and also a tree claim, pre-empting in all about four hundred and eighty acres. For many years he continued his residence there, prominently engaged in farming and the cattle business, and during those early days in that state he was also a noted buffalo hunter, and killed many of those animals for their hides. But on account of the ill health of his wife he decided to locate in Oklahoma, and in 1895 made the overland journey with team and wagon from Nebraska to Black Beaver, now known as Morrison, where he traded his team for a claim in the Kickapoo country in Lincoln county, and which is now occupied by his son. During the past eight years he has lived in Pottawatomie county, and is now the police judge of McLoud.

During his residence in Butler county, Iowa, Mr. Shaw was united in marriage to Elizabeth Jaquis, who was born in New York, a daughter of Ben H. and Fanny (Lashbrook) Jaquis, the former a native of Vermont and the latter of Exeter, England. The mother died in Harlan county, Nebraska, when sixty-four years of age, and the father was drowned at sea while making the return voyage from California in 1866, dying at the age of sixty years. Mr. and Mrs. Shaw have had seven children, namely: Cora Morrill, whose home is in Custer county, Nebraska; Hattie Meyer, deceased; Fanny Robertson, of Arnold, that state; Minnie Griffith, a resident of Denver, Colorado; Ed, whose home is in Lincoln county, Oklahoma; Olive Lyle; and Abbie, a popular and successful teacher. Mrs. Meyer, the second daughter, died in 1896, in Custer county, Nebraska, leaving a son and a daughter, J. O. and Cora A. The son is a resident of Colorado, and the daughter is with her grandfather, Mr. Shaw.

During the Civil war Mr. Shaw enlisted for service in the Forty-fourth Iowa Infantry, Company E, and he was honorably discharged on the 15th of September, 1864, with a good record as a soldier for the Union cause.

J. E. MCNAIR. During the past eighteen years Oklahoma has been the home of J. E. McNair, and during the past three years of that time he has been an earnest and faithful employe of the U. S. government, receiving his appointment as a rural free delivery carrier on the 15th of April, 1905. His route lies west nine miles and south three miles of McComb, covering a distance of twenty-six and a half miles, and the roads over which he travels are rough and hilly. He has done faithful and efficient service, and is popular on his route.

Born near Ringgold, Georgia, in 1874, a son of Wiley and Mary McNair, who died respectively in Oklahoma and Texas, J. E. McNair was reared in both Oklahoma and Texas, receiving a public school education, which was supplemented by study at home. At the age of nineteen he engaged in teaching, from which he later turned his attention to bookkeeping, and he was for eight

years in that occupation in Ardmore and McComb. He was married at the former place, in 1897, to Bertha Ward, who died leaving one son, Homer, and for his second wife Mr. McNair wedded Anna Edwards, of McComb, by whom he had two children, Granville, and a younger one who died in infancy.

Mr. McNair is a member of the Odd Fellows fraternity, Lodge No. 207, and is also a Master Mason, holding membership with the lodge at Tecumseh. Both he and his wife are members of the Baptist church.

VOLNEY SMITH. Among those who came as pioneers to Pottawatomie county is numbered Volney Smith, who arrived here on the 22d of September, 1891. He succeeded in securing one of the claims of the county, but after partially improving it and residing thereon for two years he lost the land through contest. He has since, however, become the owner of a rich and fertile farm in Earlsboro township, near the town of Tecumseh, a homestead of one hundred and twenty acres, known as the Smith Creek Farm. It contains mostly rich bottom land, admirably adapted to the raising of cotton, and he annually raises about one and a half bales to the acre of that commodity.

Mr. Smith was born in Sanilac county, Michigan, near Watertown, in 1867, a member of one of the pioneer families there, to which they moved from Syracuse, Onondaga county, New York. His father, Tilton E. Smith, was a Civil war soldier in the Union army for three years, a noncommissioned officer, and he died at his old home in Michigan when fifty years of age. He was by trade a cabinet maker and an excellent workman, and he was a member of the Grand Army of the Republic and of the Masonic fraternity. The mother still survives and is a resident of Michigan, having reached the age of three score years and ten. Of her six children, five sons and a daughter, Volney is the only one residing in Oklahoma. Four reside in Detroit, Michigan, and a son, H. W., is a prominent attorney of that state.

The state in which he was born continued as the boyhood home of Volney Smith and until he had attained the age of maturity, attending its public schools, and there under his father's able instructions he learned the cabinet maker's trade and later worked as a carpenter. In 1889 he went to Denver, Colorado, where some of his relatives resided, and there he followed his trade of carpentering. From Colorado he came to Oklahoma in 1891 to establish a home for himself and family in the new southwest. He has been successful in his efforts here and is now numbered among the leading agriculturists of Earlsboro township.

In 1893 Mr. Smith was married to Jane Delaware, a member of the Delaware and Shawnee Indians, and they have six children—Grace, Mark, Ollie, John, Ada and Willie. The four eldest are in the government school at Shawnee. Mr. Smith gives his political support to the Republican party.

REV. WILLIAM A. DOUGHITT holds and merits a place among the successful Christian workers of Oklahoma, a minister of the Methodist Episcopal church. He was licensed to preach the gospel in 1880, and has filled several charges in Arkansas and Oklahoma, a fluent and ready speaker and an earnest worker in the Master's cause. He now has a charge in Beaver county, Oklahoma, and also has a fine estate, known as Cove Farm, in Bales township, Pottawatomie county. It is rich cotton land, fertile and well improved, and especially adapted to the raising of alfalfa and cotton. Rev. Mr. Doughitt was one of the first to locate in Shawnee, and throughout the intervening years he has been prominent in its public life, having been the first street commissioner appointed in the town, and he also had charge of the clearing of the park for the 4th of July celebration in 1895, the first ever held in Shawnee.

A native son of Washington county, Arkansas, Rev. William A. Doughitt was born on the 5th of November, 1848, a year made memorable by the finding of gold in California. He is a grandson of a Mexican war soldier, Abraham Doughitt, and of a Revolutionary soldier, Henry Alburty, who was also one of the first settlers of Arkansas, locating there before its admission into the Union. Mr. Alburty lived to the re-

markable age of ninety-nine years, dying in 1856, and his grandson remembers him well. Rev. Mr. Doughitt is a son of Thomas and Sarah (Alburty) Doughitt, the former of whom was born in Davie county, North Carolina, and after a life devoted to the work of the farm he died in his seventy-eighth year. He was an earnest Christian gentleman, a member of the Methodist Episcopal church, and for thirty years he served his church as a class leader. His wife died at the age of seventy-seven, after becoming the mother of six children, four sons and two daughters, and a daughter, Mrs. Jobe, also lives in Pottawatomie county.

One of the four sons, Rev. William A. Doughitt, was reared on a farm in his native county of Washington, Arkansas, and in the meantime he completed his education in the Evansville Academy. From the age of twenty he taught school for three years. At the time of the opening of Oklahoma to settlement he joined the tide of emigration and was successful in his race for government homestead land, arriving at noon on the 22d of May, 1895, at the Sac and Fox lines, two miles east of his present home. After some little trouble he secured the deed to his land, and he now has a valuable and well cultivated homestead.

In Polk county, Arkansas, November 12, 1872, he married Belle Bowdon, a daughter of one of the prominent residents of that state, the Hon. John S. Bowdon, for years a member of the state legislature. Their children are William B., John Thomas, Lizzie, Lulu R., George Franklin, Ben Harrison, Jennie C. and Pearl May. The fifth child, Maudie Ann, died at the age of ten years. Rev. Doughitt is a stanch advocate of Prohibition principles, and has served his party as a delegate to conventions.

Eli Tasier, of Earlsboro township, owns and resides on a splendid farm three miles southwest of Tecumseh. He was born in Pottawatomie county, Kansas, in 1874, a son of Anthony Tasier, whose native soil was Canada, but he afterward became one of the early pioneers of Kansas. He was of French parentage, and was a Catholic in religion. The mother, Catherine Bourbona, was a member of the Pottawatomie tribe of Indians, and was educated in Buchanan county and St. Joseph, Missouri. Their son Eli was but a small boy when the family came to Pottawatomie county, Oklahoma, their home being on a farm four miles west of Shawnee, and there the father spent the remainder of his life and died at the age of seventy-two years. His widow yet resides on the old home farm there.

Eli Tasier was early inured to the work of the farm, and his educational training was received in the Chiloco government school in Indian Territory. He was married in 1905 to Belle Grimmett, who was born in Michigan but was reared and educated in Indiana, and by her marriage she has become the mother of one child, Glin. The family reside on a valuable and well cultivated farm of eighty acres, the most of which is rich valley land and annually returns to its owner abundant returns. It is improved with a pleasant four-room cottage, barns and other out buildings and also has a large orchard.

Mr. Tasier was reared in the faith of the Catholic church, and his wife is a member of the Methodist Episcopal denomination.

Allen Bell, M. D. The medical fraternity of Pottawatomie county numbers among its representatives Dr. Allen Bell, a physician and surgeon of Maud. He became identified with the professional life of Oklahoma in 1904, and has since been engaged in practice here, a prominent and well known physician and a graduate of the College of Physicians and Surgeons of Cincinnati, Ohio, with the class of 1886, of the N. N. Polyclinic Medical College of 1898 and a post graduate of the same institution in 1903.

Dr. Bell was born in Preble county, Ohio, near Eaton, August 3, 1857, a member of one of the oldest and best known families of that part of Ohio. His paternal grandfather established his home there as early as 1820, moving from Kentucky, but he was originally from Pennsylvania. John Bell, his son, was born on the old farm which his father cleared from the woods in Preble county, and died at the age of sixty years, a farmer all his life. He gave

his political support to the Democratic party, and was reared in the faith of the Christian church, man honored and respected by all who knew him, a faithful friend, a kind husband and father and an excellent neighbor. His wife was Mary Thompson, and she was also born and reared in Ohio, her parents coming from Virginia, and she died when fifty-five, a member of the same church as her husband.

It was on his parents' old home farm in Preble county that Allen Bell attained to a sturdy and useful manhood, attending meanwhile the common and high schools of West Alexandria. He laid the foundation of his professional career by study under the able instructions of Dr. F. N. Michael in 1883, and in the following year he entered the medical department of the University of Michigan at Ann Arbor. After a thorough medical training, including a course and post graduate course in the N. N. Polyclinic Medical College, he began practice in Freeport, Kansas, in Harper county, where after fourteen years of successful professional work he moved to Sallisaw, Indian Territory. After four years there, in 1904, he came to Maud, Oklahoma, where he has since been in active practice. He is a member of the County, State and American Medical Societies, and supports the principles of the Democratic party.

In 1886 Dr. Bell married Flora D. Bunch, who was born and reared near Canton, Ohio, a daughter of T. J. and ———— (Potter) Bunch, of Canton. She died soon after her marriage, on the 5th of March, 1887, when but twenty-two years of age.

Henry C. Craig, who is farming in Davis township, Pottawatomie county, bears an honored record for service in the Civil war, and is the grandson of a Revolutionary officer, Captain James Craig, who served with General Washington. He was born at sea near the island of Jamaica of Scotch-Irish parents. Absalom Craig, his son, was born and reared near Baltimore, Maryland, but his wife, Matilda Silvers, was from Harrisburg, Pennsylvania, and both are now deceased, the former dying in Morgan county, Ohio, when but forty-two years old, and the latter was forty-eight at the time of her death. They were Presbyterians, and he followed the calling of a blacksmith and voted with the Whig party. Of their seven children, five sons and two daughters, one son, John, was with General Sherman on his famous march to the sea during the Civil war, going from Rock Island, Illinois, as a member of the Fourth Illinois Cavalry.

Another of the sons who valiantly fought for his country in the strife between the north and the south, Henry C. Craig, was born in Morgan county, Ohio, May 30, 1833, and in his boyhood days he attended the old pioneer schools there, the school which he attended having been a little log structure furnished with slab seats resting on pegs, and his teachers were particularly dexterous in the use of the long supple switches. At the call of Lincoln for thirty thousand volunteers in 1861 he left his old home in Morgan county to join an Ohio cavalry company, but as it was not accepted by the governor, Mr. Craig transferred to the Second West Virginia Cavalry, Company E, under Captain Andrew Scott and Colonel Bales, and he saw much hard fighting in the Old Dominion state. For three years and three months he continued as a brave and loyal soldier, in that time participating in many of the memorable battles of the war, including those of the Shenandoah valley and the engagement at Winchester, where his comrades fell on every side and his own horse was killed. Receiving his honorable discharge at Wheeling, West Virginia, in December, 1864, as a commissary sergeant, he returned to his home and to his former occupation of farming, but shortly afterward, in 1865, he went to Brownsville, Missouri, where he farmed until his removal to Oklahoma in 1897. He was among the first to establish his home in Pottawatomie county, where he purchased one hundred and sixty acres for eleven hundred and fifty dollars, and later he paid six hundred and seventy dollars for a tract of forty acres. The Roosevelt Farm, as his homestead is known, is one of the best farms in Davis township and lies four and a half miles north of Shawnee. It is mostly

creek bottom land, well adapted to the raising of alfalfa and other products of the southwest, and the rich and fertile land is under an excellent state of cultivation.

Mr. Craig has been twice married, wedding first, in 1855, Lee Ann Coburn, who was born in Morgan county, Ohio, and died in 1861, when but twenty-six years of age. She left three sons, but only two are now living, Simon and Willie, the former residing in California and the latter on the old Silvers homestead in Morgan county, Ohio. On the 15th of August, 1870, Mr. Craig married Nancy E. Caton, who was born and reared in Cooper county, Missouri, but her parents, Thomas and Elizabeth (Lowrey) Caton, were from Virginia. They became farming people in Missouri, and the father died in that state at the age of sixty years, the mother surviving until her seventy-sixth year. They were Methodists in their religious belief, and of their family of seven children four are living at the present time. Among those who have passed away were two Union soldiers, Nathaniel and Ben, the latter dying in Arkansas. Of the nine children born to Mr. and Mrs. Craig five are living: Ben W., engaged in railroad work; Minnie May, a stenographer; Henry C., Jr., Mary Gertrude and C. Raymond, at home. A son, John D., died when a young man of twenty-six, and a daughter, Melissa, lived to the age of thirty. The other two died in childhood. Mr. Craig is a Republican, as was also his father, and is a stanch and true supporter of such principles and a strong Roosevelt man. He is one of Davis township's best known and most valued citizens.

MENDIOUS PLATZ has been numbered among the agriculturists of Pottawatomie county for a number of years, and during three years he served his township of First as its trustee, a stanch and true Republican. He came to the territory of Oklahoma in 1893, at the opening of the Cherokee Strip, and nine years ago he became a resident of Pottawatomie county.

Mr. Platz was born in LaGrange county, Indiana, near LaGrange Center, in 1857, a son of an Indiana farmer, Phillip Platz, who was born, however, in Pennsylvania, but became one of the early residents of LaGrange county, and from there after many years he went to Kansas, dying in Douglas county, near Lawrence, of that state. His wife, nee Catherine Sipe, yet survives him, and has now reached the advanced age of eighty-two years, residing in Douglas county. Mendious Platz was one of their nine children, three sons and six daughters, and when a lad of eleven, in 1868, he accompanied his parents on their removal to the Sun Flower state, completing his education and attaining to mature years in Douglas county. During all these years he also assisted his father in the work of the farm. In 1893, with his wife and family, he came to Oklahoma, and in First township, Pottawatomie county, he now has a valuable farm of seventy-five acres, devoted to the raising of many varieties of fruit, and the place is known as the Hoosier Fruit Farm.

Just after attaining the age of maturity Mr. Platz married Margaret Waner, who was born in Montgomery county, Indiana, and they had eleven living children, three sons and eight daughters, namely: Howard, Bessie, Pearl, Nellie, Sylvia, Lola, Ora, Ollie, Gladys and Fern. One son, Leslie, was killed on the railroad when twenty-two years old. He was a young man of great promise, loved by all who knew him, and his sudden death was a terrible affliction to his family. Mr. Platz is a member of the fraternal order of Odd Fellows, Lodge No. 24.

J. D. GILLILAND, an agriculturist in Eason township, was born in Barren county, Kentucky, in 1859, and his parents, David and Fribie (Mingard) Gilliland were also natives of that commonwealth, and there they spent their lives and died. In their family were five children, four sons and a daughter.

J. D. Gilliland spent the first seventeen years of his life on the home farm in Kentucky, and then went to Wright county, Missouri, from whence he later went to Webster county, that state, and from there to Texas, where he rode the range as a cowboy for some time. From Texas he became one of the early pioneers of Indian Territory, locating there as early as 1882,

and after living for a time at Leon he went to Burneyville and from there to McGee. In 1897 he came to Pottawatomie county, Oklahoma, and in Eason township he now owns a well cultivated and valuable homestead farm, one of its principal features being its large and well bearing orchard of twenty acres, in which he raises all the standard varieties of fruits grown in this section, including many varieties of apples.

During his residence in Indian Territory, in 1886, Mr. Gilliland wedded Nancy Buttram, who was born in Arkansas, but was reared and attended school in Indian Territory, and they have had six children, namely: Margie, John, Buford, Zeland, Ruby and J. D., Jr. Mr. Gilliland's politics are Democratic, and during three years he served his township as a trustee with an excellent record. He is a member of the Independent Order of Odd Fellows and of the Christian church.

M. P. Hatch, manager of the Blue Ribbon Creamery, at Shawnee, Oklahoma, was born in Chenango county, Illinois, in 1870, son of T. O. Hatch, a native of Ohio, who was a soldier in the Civil war, being a member of an Illinois regiment and making an excellent military record. After the close of the war he went to western Kansas, locating a homestead in Finney county. There in the wilds of the plains of the west, which but a few years before had been indicated on the maps of the common schools as "The Great American Desert," he set out to make for himself a home. Notwithstanding the hot winds, dry seasons, grasshoppers and occasional cyclones, he had the courage to brave all, and finally succeeded in securing his homestead and some school lands which became valuable. He married Mary Moffat, a native of Pennsylvania, who made for him a most true and worthy helpmate, and did her full share in the early homestead days in Kansas. They were the parents of five children—two sons and three daughters.

He of whom this sketch is especially written, M. P. Hatch, was reared to farm labor on the homestead taken up by his father and attended the public schools, whenever opportunity afforded the chance. Subsequently he went to Hutchinson, Reno county, Kansas, where he served a seven-year apprenticeship learning the trade of a baker, together with the art of making ice cream and kindred delicacies, and mastered all the details of this business. In 1901 he established an ice cream business at Shawnee and three years later his present extensive plant was founded. This is in the south part of the city; it is conducted in a building thirty-six by sixty feet and two stories high. Here he handles milk, cream and ice cream, the milk being brought in many miles from the surrounding country by the farmers, as well as by train. The amount of milk purchased in the season of such work is upon an average of five thousand pounds a day, which makes a monthly business of three thousand dollars, paid out for milk and cream. All of the latest methods known to modern sanitary science is here employed. The trade is an extensive one, and is handled on excellent business principles. When Mr. Hatch came to Shawnee he was involved in debts amounting to more than five hundred dollars, but through his enterprise and hard work has cleared himself from the debt and is now well-to-do, owning a good home and lucrative business.

He was married in Finney county, Kansas, in March, 1904, to Matilda Johorum, a native of Iowa, but reared and educated in Kansas. The five children born of this union are: Raymond O., Alma L., Reginald, Majorie, Theodore L. The parents are both connected with the Methodist Episcopal church and number their friends in the vicinity of Shawnee by the hundreds.

Charles M. Taylor. Of the railroad officials of the great trunk lines in Oklahoma, several are located at Shawnee, which, though fifteen years ago without a railroad, is now one of the principal railroad centers of the state. This being the division point of the Choctaw Division of the Rock Island System, one of the leading railroad men with offices in this city is Charles M. Taylor, who, on April 1, 1907, was promoted to the position of superintendent of motive power for the division. He is a capable and experienced railroad man, and in the mechanical department has worked his way up from the bottom. Born in Baltimore, Maryland, May 25, 1860, son

of Edward and Mary (Sowers) Taylor, both natives of the same state, he accompanied the family to St. Louis, Missouri, when he was seven years old, and was reared in that city, receiving his education in the public schools. He began the work which has finally led to the promotion above mentioned, when he was seventeen years old, in the shops of the Iron Mountain Railroad at St. Louis, and during the following years was employed by various railroad companies and in capacities of increasing responsibility. Beginning with the Santa Fe in April, 1886, as machinist, he finally reached the position of mechanical superintendent of the western grand division at La Junta, Colorado. December 15, 1906, he was led to accept the position of master mechanic of the Choctaw Division for the Rock Island, and a few weeks later was promoted to his present position. Since coming to Shawnee he has identified himself as closely as his duties permit with the active citizenship of the city. In Masonry he is a Knight Templar and a Shriner. In 1888 he was married to Miss Edna Herndon, a native of Missouri, and they have two daughters, Fay and Lucile.

Rev. Lindsay C. Wolfe. At Shawnee the Baptist church is presided over by the Rev. Lindsay C. Wolfe, one of the most energetic and effective workers for the church in the new state. The splendid new church building in Shawnee, nearing completion at this writing, is a monument to his leadership and the growth and zeal of the Baptist congregation of this city. During the recent campaign the cause of prohibition had one of its most able advocates in the pastor of this church, who urged the principles from the public platform and also did yeoman's service in directing public opinion to the desired decision on this question. He was an untiring worker and contributed not a little to the final triumph. Rev. Mr. Wolfe has been in charge of the Baptist church at Shawnee since 1904. He has done the work of missionary and organizer here, and has increased his church membership from 236 to 760 in 1907. His ability in the pioneer work of the church has gained him a place on the territorial or state board of missions, on which he has served six years, and at the present time is chairman of the Baptist educational committee of the state for the purpose of developing the educational interests. It is also part of the plan of the committee to locate a Baptist university in the new state.

Rev. L. C. Wolfe is a minister of varied interests and ability, and as a young man has made a large success of the profession to which he devoted himself. Of an old southern family of broad culture and social prominence, he was born at Mount Sterling, Montgomery county, Kentucky, April 14, 1873. His grandfather, Ezra M. Wolfe, had at one time been a prominent dry goods merchant of Charlottesville, Virginia. At the old university town last mentioned was born the only son of this merchant, J. B. Wolfe, who was a physician, a university graduate, and a man of unusual ability. He died June 20, 1906. His wife, who before her marriage was Sarah Horton Wilson, was also of an old Virginia family, but she herself was reared in Tennessee. She is still living. Lindsay C. Wolfe was educated largely at home, under his father's direction, and later graduated from the law department of Richmond College in 1891, and for eight years was a successful practicing lawyer in Giles county, Virginia. It was at the end of this time that he felt called to preach and in preparation for the work attended the Southern Baptist Seminary at Louisville three years. His first charge as pastor was at Vinita in Indian Territory, where he continued until his acceptance of the post at Shawnee. Rev. Mr. Wolfe was married, December 30, 1891, to Miss Cynthia E. Shumate, a daughter of Kenley Shumate, one of the old residents of Giles county, Virginia, and a veteran of the Civil war. Mrs. Wolfe is a graduate of a well known school in Virginia, and a woman of culture who has co-operated heartily with her husband in his work. They have two children, Joseph Roger, born June 24, 1893, and Ira Clay, born February 24, 1895. Rev. Mr. Wolfe is affiliated with the Masonic order, having been initiated in John Dare lodge, the oldest lodge of the state of Virginia, and is now a member of the lodge at Vinita.

EDGAR B. HERNDON, of Idabel, who is the present capable register of deeds for McCurtain county, Oklahoma, went to that state while it was yet a territory, in 1890, from Sevier county, Arkansas, where near Ben Lomand his birth occurred December 29, 1871. He is the son of Harrison Herndon, who was a native of Orange county, Virginia, born in 1830, and just prior to the breaking out of the Civil war in 1861 he left the Old Dominion state and took up his residence in Sevier county, Arkansas. When the war came on he enlisted in the Confederate cause, believing that his position was rightly taken. He was a captain of an infantry company, and he served through the thickest of the deadly conflict east of the Mississippi river. At the termination of the disastrous war, he returned and followed the carpenter and bridge building business, which he pursued until advancing age forced him to retire to his farm, and he died in the month of February, 1906. As a citizen he was without ambition other than to be law-abiding. He was interested in all civilizing and enlightening agencies and in political choice he was a consistent supporter of the old-fashioned Democracy. He was married to Alice Robinson, a resident now of Idabel. Their children were: Robert F., of Sevier county, Texas; Charles H., of Idabel, Oklahoma; Quintus, of Garvin, Oklahoma; Clara, wife of Mr. Conger, of Prescott, Arkansas; Lona, who married Mr. Baggerly and died near Prescott, Arkansas; John C.; Ezekiel, of McCurtain county, Oklahoma; Edgar B.; and Sidney J., of Idabel, Oklahoma.

Edgar B. Herndon received his education at the public schools and was under the paternal roof until nineteen years of age, when he came to the Choctaw Nation and became a clerk at Lukfata, then Shawneetown, and finally to old Fowlerville, near Wheelock, where he was located twelve years, selling goods for himself a greater portion of the time. He was also married there, and when he ceased to be a merchant he became a farmer and stock man. He was thus engaged, when he won the nomination and final election to his present office. He made the race for the election to the office of register of deeds of McCurtain county against three opponents and won the nomination from the Democratic party, defeating the Republican opponent at the September election by four hundred and sixty votes, he being the high man of his party ticket. The people made no error in voting for him, for his official duties are seen to without fault or favor to any faction. In his fraternal relations Mr. Herndon is identified with the Masonic Lodge, No. 170, of Valliant, with Odd Fellows, Knights of Pythias and Woodmen of the World.

Of his family relation it should be recorded in this connection that he married, May 3, 1896, Mrs. Lucy Townsend, a Choctaw lady and the widow of W. J. Townsend, whose children are Charles, deputy register of deeds; Sarah, wife of E. A. Tacker; Susie; Clark and Benjamin. The issue of the marriage of Mr. and Mrs. Herndon is as follows: Alice, Harrison, James, Maud, Clara, and Lucile Fay, who is deceased.

JOHN R. WHITE, of Idabel, a leading merchant of the county seat of McCurtain county, was born near Clarksville, Texas, November 23, 1858. He was a farmer's son and received a limited education in the country schools, being a resident of Red River county until his advent to the Choctaw Nation in 1891.

William S. White, the father, was born in Alabama in 1834, a son of a planter in humble circumstances. He was educated in accord with the family station, and served through the rebellion in the Confederate army as a Texas soldier, to which state he had gone in 1857. The father's name was John C. White, and he passed away at Greenwood, Louisiana, and had no other surviving children. William S. White married Frances Stiles, by whom children as follows were born: John R.; Joseph, of Foreman, Arkansas; William R., deceased; Laura A., wife of Clarence B. Aydelotte. The father died in Texas in 1890, and the mother resides in Idabel, Oklahoma.

Of Mr. White's mother's people it should be added that they were among the pioneer

settlers of the famous Red River county section in Texas, to which country her father went at a very early day and he, John Stiles, opened a farm there and was among the element who planted civilization there. Before going to Texas the family was under the protection of Ft. Towson, just across the Red River in the Choctaw Nation, as the country was then overrun by fugitives from justice and other undesirable persons.

John R. White remained at home with his parents on the farm until he had reached his majority and he had engaged in farming himself but had not succeeded in gaining much capital upon his coming into Oklahoma. On August 17, 1891, he was married to one of the citizens of the Choctaw Nation. He here engaged in the stock business and was undisturbed in it, prospered and became a somewhat extensive cow man. In a few years he embarked in the mercantile business at Harris, a country trading point near Red river, and in partnership with Mr. Coleman built up a prosperous business. When the Frisco railroad was constructed through the country and established a station at Idabel, he was one of the first men to identify himself with the future county seat. Here he invested much of his vacant property and opened the first business house in the new place. Within a few years his quarters became too small to accommodate his increasing trade and he erected a brick building, fifty by one hundred feet, on one of the main corners of the town and in which he has since conducted his business.

Mr. White has been actively engaged in the affairs of Idabel in other ways than a builder, having developed and organized the First National Bank of the town, was a member of the first council of the town and served four years on the board of education. He is a member of the Masonic order, in which he has attained the thirty-second degree, and of the Knights of Pythias and Woodmen of the World.

Of his domestic relations it may be stated in this connection that he was married August 17, 1891, to Lena Simpson, a daughter of Tuck and Jency (Hampton) Simpson. Mrs. Simpson was a Choctaw and Mr. Simpson's people were emigrants from Ireland. Mr. and Mrs. White have children: Julius, May, Ola and Tuck.

All in all the career of Mr. White has been one marked with hardships, but at almost every step of the way he has succeeded in gaining his point and to-day stands as a living monument of what a man may accomplish on free American soil if he possesses the right elements of success and will work honorably toward that end.

EDWARD L. NELSON, of Idabel, the county treasurer of McCurtain county, Oklahoma, and a settler who came in from Sevier county, Arkansas, was born in Lauderdale county, Alabama, February 23, 1848. He is descended from the Tennessee Nelsons, for his grandfather was a native of that state, while his father, Robert Nelson, was born in Alabama. The latter was born in 1813, was reared during the closing territorial days of Alabama, and as a boy saw the early years of statehood in that famous commonwealth, and there married Polly Norvell. About ten years prior to the great Civil war they moved to Tishomingo county, Mississippi, where he continued to reside and ply the trade of a shoemaker. There he lost his wife in 1856, and in Dumas, Mississippi, he passed away himself in 1890. From 1861 to the fall of Fort Donelson in February, 1862, Robert M. Nelson was a private soldier in the Twenty-third Mississippi infantry, entering the Confederate service at the age of forty-eight years and being exchanged after the Fort Donelson fight and discharged from the army on account of age limit. He was a man of strong physique, and although he had led a sedentary life he maintained unusual vitality almost up to the threshold of his centennial year. By his marriage to Polly Norvell he became the father of: Elizabeth, of Ellis county, Texas, wife of Thomas A. Dandridge; John A., killed at the battle of Baker's Creek in 1863; Lydia, of Greenville, Mississippi, wife of B. F. Perry; Edward L., of this review; Luther C., of Brashear, Texas; and Emily, who married G. D. Feagin, of Seagoville, Texas.

The youth of Edward L. Nelson was passed in Tishomingo and Tippah counties,

Mississippi. His time was consumed largely with enterprises of an industrial character and with some phases of social employment not on the program of a youth with moral upright intentions. The presence of a stepmother in the home failed to stir in him the most loyal and deepest filial emotions in his youthful breast, and he longed for an opportunity to free himself from a situation full of unhappiness to him and chance the future with the stern realities of life. The schools of his youth had not inspired Mr. Nelson to an effort to acquire an education, and the excitement of the Civil war beckoned him to a participation in the conflict, so that when his father gave his consent to enlist he did so joyously, and in August, 1863, he enrolled in the Seventh Mississippi Cavalry Regiment, commanded by Col. E. A. Cox. This was a state militia regiment and was placed under General Brandon and saw some active service in the field, even going outside of the state and skirmished and fought battles in Tennessee and Alabama. He was in the engagement at Brice's Cross Roads, and when the war ended was paroled at Tupalo, Mississippi. At the war's end Mr. Nelson was yet a sturdy youth of but seventeen summers, without education, but with considerable experience with the world's ways and with a desire to know and to be known. He entered a country school whose teacher was about his own age, and started with the multiplication table. Encouraged by a good teacher to believe that he had the metal in him to make a useful man, he applied himself diligently and in twenty months became able to get a third grade certificate and was encouraged to make his home in school. This was the beginning of a long and eminently successful career as an educator, for he taught seventeen years in Mississippi, then went west to Sevier county, Arkansas, where he taught fifteen years more, and finally served three years in the schools of the Choctaw Nation, finishing his work in 1906 with the principalship of the Valliant school. While in Arkansas he taught twenty-four schools in twelve years, and made and gathered a crop each year. For six years he was the only teacher employed by a certain school district, and whatever may be said complimentary of his work as an instructor, his real forte was keeping order. Order is Heaven's first law, and the rule applied in the school-room in which E. L. Nelson taught. As a means of securing order he was friendly toward moral suasion, but he kept himself so familiar with the old time methods of handling obstreperous and bullying boys that when moral suasion failed he resorted to the birch, and such occasions were sometimes celebrated by the patrons of his school as the achievements of an important victory for peace and order in the community. A third of a century in the school-rooms of the South so familiarized Mr. Nelson with the various subjects to be taught as to almost make him a text-book, and his career among the natives of the frontier of Arkansas gave him so varied an experience that he was regarded as an authority on matters of school government, and he was so held by teachers of institutes and other educational bodies where he was wont to attend.

On coming to Oklahoma in 1903 Mr. Nelson leased a tract of land in the mountain country north of Valliant in McCurtain county, and was there engaged in farming and stock raising until 1906. That year his faithful wife died, and he was soon called to take the Valliant school and abandoned farming. From this school room he was elected county treasurer, and took his office with the beginning of the statehood affairs. The Democrats of McCurtain county have entrusted to his care and keeping the funds of the wealthy county and the proper conduct of one of their most important offices. He with his highly competent deputy are fulfilling the sanguine expectations of their political and civil friends.

Another important epoch in this man's career was his marriage, January 8, 1870, to Martha A. Robinson, daughter of H. B. and Sarah (Tigert) Robinson, of Tippah county, Mississippi, but formerly of Tennessee. Mrs. Nelson passed from all earthly scenes March 25, 1906. She was the loving mother of the following children: Marvin C., deputy treasurer, who married Annie Knox and has two sons, Earnest Hubert and Haskell; Hugh B., who married Jessie

Randolph March 1, 1906, and died March 23, following; William R., of Idabel, Oklahoma; and Luther E., of the last named place, who married Jennie Ward and has a daughter, Erline. Mr. Nelson married a Christian lady, a member of the Methodist Episcopal church, of which he is still a communicant. He maintains a happy, jovial disposition and has a pleasant word for all with whom he mingles. In the community where he broke up rowdyism and restored order in school many of his warmest friends reside, and among his staunch supporters for office were his pupils who had felt the force of his lash when doing the role of "running the teacher out of school." On October 25, 1908, Mr. Nelson married for his second wife Mrs. Sallie E. Davis, of Dennison, Texas.

CHARLES J. STEWART, of Idabel, clerk of the district court of McCurtain county, Oklahoma, is descended from a Scotch ancestor who came into the American Colonies some time in the seventeenth century and established his home in Maryland. He came out of the Highlands of his native country and his posterity, like that of contemporary pioneers, scattered to the "four winds." One, Joseph Stewart, coming westward, entered Middle Tennessee during the first years of our American independence.

Joseph Stewart was the grandfather. He was a planter of some note and married, both he and his wife dying in Overton county, Tennessee. William and Joseph Stewart were the only surviving issue of this marriage, and the former reared a family in Alabama. Joseph Stewart was born in Tennessee in 1804, was sparingly educated and married Elmyra Rogers, daughter of Joseph Rogers, another pioneer of Tennessee, and moved to Johnson county, Arkansas, in 1841, and there enlisted for the service of the war with Mexico. He was in old General Taylor's army and was discharged the evening before the battle of Buena Vista, but participated in it. He returned to Arkansas and followed the plow until 1856, when he crossed the great western plains to California, intending to engage in mining gold, but after following it a short time he bought a small ranch in Sonora county and stocked it with goats and sheep, remaining in that country until 1867. While in California he took an interest in politics, and was elected high sheriff of Sonora county. On his return to Arkansas, he resumed farming. Previous to his going to California he was elected a justice of the peace and constable of his precinct. He was well known as a staunch Jacksonian Democrat. Joseph Stewart married a Tennessee lady in his young manhood's days, and his children who reared families were: Mary A., who married Lieutenant Irvin Howard and died in Arkansas, leaving a family; Jane married John Bush and died in Johnson county, Arkansas; Rachel became Mrs. James Kelley, of Johnson county, Arkansas; Elsie married Matthew Brown, first, then Bud Howardston and finally Otho Rhoades, and passed away in Johnson county, Arkansas; Lucinda married Levi Smith and died in Louisiana; Nancy married John Grace and also died in Arkansas; Charles J., our subject; and Bourland, who passed from earth in his native state.

Charles J. Stewart was born in Johnson county, Arkansas, January 16, 1848, was reared on the farm, and had but little education until after the great Civil war. He enlisted in that conflict in 1864, in Hill's regiment, Cabell's brigade, Fagan's division, and served under General Price in the Trans-Mississippi Department. Among the engagements in which he took part may be named Pilot Knob, Missouri, where only thirteen of his company answered roll call when the fight had ended. He was discharged at Marshall, Texas, and returned home. After providing for his parental household he set about gaining an education. He entered Ewing Seminary with the purpose of preparing for the ministry, and after more than four years in that institution terminated his school work with a year in old Franklin College, long since a defunct institution. On assuming his station in life he first taught school, and later was a minister of the Cumberland Presbyterian denomination. The two vocations he followed for twenty years in Arkansas, teach-

ing in both country and graded schools, and identifying himself with the progressive element of the profession.

It was in 1897 that he came to Poteau in the Choctaw Nation and took charge of the high school and Indian schools there, with his oldest daughter as his assistant. They spent two years at that employment. The next year he passed as the editor of the Howe *Searchlight*. Resuming school-teaching, he taught at Heavener one term, then went to McCurtain county and taught a few months, then went to farming near Idabel, in which vicinity he has resided ever since 1902. He owns both town and farm property and was elected to his present office as a McCurtain county citizen, defeating his opponent in the general election by a majority of five hundred votes. Mr. Stewart is connected with the Masonic fraternity, being a Master Mason. He joined John S. Hill lodge in 1873, and has demitted through Poteau and Goodwater and belongs in Haworth. He is also a member of the Knights of Pythias and other orders.

On December 9, 1869, he was married in Johnson county, Arkansas, to Mary, daughter of J. L. Overbey, a Virginian and a farmer. Mrs. Stewart was born in Arkansas December 19, 1850, and is the mother of: Sallie, wife of J. W. Covey; Charles; Lizzie, wife of W. B. Hinton; Nellie, assistant county clerk; Lucy, Mrs. C. W. Dickerson; and Paul and Ben, of Idabel.

Dr. Robert C. Bills, well known as an educated and skillful physician and surgeon practicing at Soper, has been a citizen of Oklahoma thirteen years. He first cast his lot in the Choctaw Nation in 1895, then a young doctor, and established himself on Crowder's Prairie, in what is now Choctaw county. He practiced there four years and at Jackson, Oklahoma, another four years, and then located permanently at Soper, where he has since resided and continued in his medical practice. He is now one of the oldest representatives of the regular school of medicine within the county.

Dr. Bills was born in Lamar county, Texas, September 12, 1863, on his father's farm. The years of his life from childhood to manhood were spent chiefly midst urban surroundings, as his father, G. C. Bills, opened a store at Sylvan, Lamar county, at an early day and became a merchant also in Lockhart, Texas, in after years and where he finally retired from business and now resides. G. C. Bills was born in Lewisburg, Tennessee, in 1839, and obtained a fair literary education and migrated to Texas, while yet unmarried. He married in Lamar county, Texas, Nannie Patton, daughter of William Patton, a farmer who settled there from Alabama. Mrs. Bills died in 1893, the mother of John H., of Caldwell county, Texas; Annie, wife of Mr. McClellen, of Galveston; Dr. Robert C., of this memoir; Luther, of Seward, Alaska; Della, who married Jo. Collins, of Greenville, Texas; and Sallie, who married James Lay, of Lockhart, Texas.

It may be said in passing to the personal sketch of Dr. Bills that according to tradition this family of Bills started from the remnant of a family who while crossing the waters of the Atlantic ocean to American shores all perished save one small boy, who had a large nose, and the surviving passengers dubbed him "Bill," in honor of his prominent feature. The most remote descendant of this family founder is John Bills, who was born in Tennessee about 1794, married and became the father of five daughters and four sons. He went to Texas as the head of his family and established himself in Lamar county, where he owned slaves during the final days of that epoch, and died as a farmer in 1878. All is tradition as to how the family originated —yet it is believed to be the true source of the name.

Dr. Robert C. Bills abandoned farming at the age of twenty-two years, and he had attended the public schools before that time. When thirty years of age he decided to study the science of medicine in the office of a relative, Dr. J. W. Patton, of Pattonville. He took his first course of lectures in the Hospital Medical College at Memphis, Tennessee, with two additional courses in the University of Tennessee, at Nashville. As soon as competent he began practice, and really had many years of successful practice before he finally took his

professional degrees, at the Gates City Medical College, Texarkana, in 1907. He is now an honored member of the Choctaw County Medico-Clinical Society.

Fraternally Dr. Bills is a Mason, having joined the order at Bennington, Oklahoma, in Lodge No. 19. He transferred his membership to Soper lodge, No. 345, and was elected senior warden, and has held that office ever since. He also belongs to the Woodmen of the World and to the Modern Order of Praetorians, being medical examiner of both orders, and also examiner for the Northwestern Mutual Life Insurance Company.

On May 28, 1899, he was happily married to Miss Sarah Le Flore, daughter of William Le Flore, a citizen of the Choctaw Nation. Mrs. Bills was born in Oklahoma, was educated here and is descended from one of the prominent Indian families of the Nation. Dr. and Mrs. Bills have no issue.

James T. Leard, of Hugo, Oklahoma, is a pioneer white man of the newly formed state, for he was a youth of but sixteen years when his father brought him hither in 1868 and established his future home among the Indians of the Choctaw Nation. This home was founded among the rich scenes in the vicinity of Ft. Smith, Arkansas, where the parents both passed away, the father in 1902 and the mother in 1883.

John R. Leard, the father, was born in South Carolina in 1822, a son of Alexander and Jane Leard. The grandfather was a native of Ireland and after his death the widow came to the Choctaw Nation to be near two of her granddaughters who were in charge of relatives there. She died near Ft. Smith in 1870 at the age of eighty-seven years. She was the mother of James O., who died in Alabama; Mary A., who married and died in that state; John R.; David E., deceased; William A., who died in the Confederate army; S. W., who died in Mississippi; and Sarah A. and Elizabeth C., who died in Alabama.

John R. Leard was by calling a farmer in Alabama and he engaged in that when he came to the Indian country of the West. He married in 1851 Priscilla Morris, who bore him: James T., of this notice; William A., who was drowned in the Arkansas river; Robert S., a merchant of Ft. Smith; and Andrew, of Tombstone, Arizona.

James T. Leard acquired his education by practical experience. The primitive affairs of the post-bellum days of the sixties and early seventies in this territory precluded the possibility of more than a limited education for the youth whose parents were without means. His father's farm was his home until past his majority, when he married and took his bride to a new place on the Arkansas river, near the mouth of Sansbois, and established their first home. He remained two years. He then moved to a farm twelve miles south of Ft. Smith, and on that farm some fifteen years of their lives were spent. Later they removed to Milton and ranched and farmed several years longer. They lived for a time in Fort Smith, Arkansas, while the children were finishing their education and spent their summers in McCurtain. When the allotment period came on he selected some of the family acres near Hugo, and in 1907 brought his family hither and established his final home. The Leard home is one of the most pretentious of all Hugo and vicinity. Its proportions are simply immense for a country home in a new and frontier country and its dozen or more large rooms are tastily furnished and all the fittings shed an air of ease and comfort in keeping with substantial and independent character of the family.

On June 10, 1874, Mr. Leard married Cora, daughter of Robert S. and Mary A. (Moncrief) McCarty. Mrs. McCarty was a Choctaw, and she and her husband came to the Territory from Alabama. Mrs. Leard and husband have children: J. Norman, one of the leading young business men of Hugo, born March 23, 1875, in Le Flore county, Oklahoma, and educated in the Indian Schools and in Henry Kendall College at Muskogee. He acted in the capacity of private secretary to Governor Dukes and to Governor McCurtain, and upon retiring from politics he took up the real estate business in Hugo. He joined Wright Brothers in a lumber and sawmill proposition, which was handled with much success and gained large returns within a

few months. He is one of the stockholders in the Wright Lumber Company; the Hugo Wholesale Grocery Company; the Carson Lumber Company; and is a partner in the Palace Drug Company in Hugo. He owns farms and sundry other properties within Choctaw county. He married Marguerite Overstreet December 16, 1908. Minnie, the second child of Mr. and Mrs. Leard, died at the age of sixteen years; Annie died aged twenty-two years, as the wife of C. A. Overstreet; Walter F. married Winona Ross, of Durant, Oklahoma, and is engaged in the fruit business there; James A. resides in McCurtain; Helen is a young daughter at home; Robert R., Terry T., Laura A. and Wheeler R. are all at home.

That the Leard family have had a share in the wars of their country it only need to be subjoined that the subject's father served as a soldier in both the war with Mexico and in the Confederate army during the Civil war. The family are members of the Methodist church at Hugo.

THOMAS E. SANGUIN, proprietor of the Choctaw *Chronicle* and the ex-treasurer of the Choctaw Nation, is a citizen who has been closely identified with various features of the Indian problem during the years just preceding statehood. He was born within the limits of Choctaw, then in Kiamcha county, Oklahoma, November 25, 1871. On the paternal side he is Swedish and on the maternal side French, German and Choctaw, for his mother was a Spring of Swiss origin, and his maternal grandmother was a Le Flore, originally French.

Charles Sanguin, a Swede, and the father of Thomas E., entered the Indian Territory just after the close of the Rebellion, settling directly from Kansas. He was born in the Scandinavian peninsula and left the fatherland to seek more favorable conditions as offered industrious settlers from foreign lands in the United States. Settling among the Choctaws, he devoted himself to agriculture and stock raising. Subsequently he married Susan Spring, daughter of William Spring, a prominent Indian settler of the Nation and a widely known gentleman and successful business man. Originally Mr. Spring was from Mississippi, where his birth occurred, and as a youth he accompanied his parents into their new country in the West. He took sides with the southern Confederacy during the Civil war and served in Folsom's command as a soldier during a part of that great struggle. After the war closed Mr. Spring devoted himself to farming and mercantile pursuits, made much money and died with a good estate. When Hugo first started he became interested in its growth and owned considerable realty in the new town. He married Miss Le Flore, as before stated, and reared a family of children.

Charles Sanguin died rather early in life's career, passing away at the age of forty-seven years, in 1883. His children were: Thomas E.; Henry L., of Hugo; and William M., who resides in the Chickasaw Nation. In time Mrs. Sanguin married Zadock Le Flore, who recently died. The children by that union were: Carrie, wife of John Roden, of Choctaw county; Basil, of Ft. Towson; Winnie, who married a Mr. Blankenship and died with one child; Rosa, wife of William Smith, of Ft. Towson; Osborn, Grace and Susie, of Ft. Towson.

The public schools and Spencer Academy, an Indian School, provided Thomas E. Sanguin with a liberal education. He began his independent career as a clerk for his grandfather Spring in a country store. He had been reared near his birthplace, and Old Spring Chapel did its share in preparing him for the duties of citizenship. On leaving the Spring store he embarked in a mercantile business at Doakesville in company with his cousin, Joel Spring, whose interest he subsequently purchased. After five years in trade there and for some time after the disposal of his business he was engaged in dealing in and shipping cattle, while farming also demanded his attention. Being an Indian himself Mr. Sanguin found it to his liking to take some part in the Indian politics, and from early manhood he did so. His large business experience made him popular with all classes and a safe candidate for service under the Indian government. He became a candidate for treasurer of the Nation in 1897, and being elected was the youngest man to hold that important office. He readily gave

a bond of twenty thousand dollars, and handled for his people during the two years of his official reign between three and four hundred thousand dollars in money. While treasurer of the Choctaw Nation he resided at Goodland, having moved there from Doakesville when he quit mercantile life. When Hugo superseded Goodland and became the railroad's chief town in the county he took up his residence here, and became connected directly with its welfare. He was made coal commissioner for the Choctaws by appointment of the President of the United States and made many trips to the National capital with other members of the Commission, trying to sell the coal lands of the two tribes, but no deal was ever consummated. After retiring from the office of treasurer he was appointed by Governor Dukes royalty collector, giving five thousand dollars bonds, and he collected twenty-five thousand dollars while in the service. The same governor made him a member of the commission to formulate a supplemental agreement to the Atoka Agreement, and he made a trip to Washington while performing the work for which this commission was appointed. When he went out of office as coal commissioner he entered the newspaper field and established the Choctaw *Chronicle* in January, 1907, and he has been its business manager ever since. This journal was conducted as a weekly.

Mr. Sanguin took his family allotments near Goodland and Hugo, a body of eight hundred acres, which is a part of the family's possessions within the county. Much of his fine lands are being farmed by tenants, with only a general supervision upon his part. What but a few years ago was a wild waste is now domesticated and is approaching the real dignity of an eastern farm.

On December 27, 1897, Mr. Sanguin was married to Zula C. Vaughan, a daughter of J. B. and Virginia (Vann) Vaughan. The Vaughan children were: John S., of Texarkana; Mrs. Sanguin; Willis; Joseph, deceased; Lewis, of Texarkana; Ruth, wife of Chester W. Miller, of Hugo; and Leo, of Springfield, Missouri. The issue of Mr. and Mrs. Sanguin are Clyde, Virginia (deceased), Charles, Marcia and Joseph. Mr. Sanguin is a worthy member of the Knights of Pythias fraternity.

ENOCH NEEDHAM, postmaster of Hugo, Choctaw county, and one of the pioneers of this prosperous and promising city, was born at Kenton, Obion county, Tennessee, on the 27th of May, 1876. His father, Enoch Needham, was a merchant, born in the same county, where he died in 1880, at the age of thirty-eight. The widow Mary J. (Tucker) Needham, is the daughter of Stephen Tucker, who died while engaged in farming near Hackett City, Arkansas. The children of Mr. and Mrs. Enoch Needham were as follows: John, who died at Cordell, Georgia, and left a family; Nellie, wife of John J. Thomas, of Talihina, Oklahoma; Nannie, Mrs. W. D. Ayres, residing in Fort Smith, Arkansas; Emma, who is Mrs. W. R. Burns, of Van Buren, Arkansas; Jessie, who became Mrs. A. M. Chambers, of Poteau, Oklahoma; Jennie, wife of R. L. Cook, of Hugo; Enoch, of this sketch, and Collin, a resident of Van Buren.

Enoch Needham, the son, left Tennessee with his mother in 1881 (the year after his father's death) and the family settled in Fort Smith, Arkansas. The boy was then but five years of age, and it was at Fort Smith, Van Buren and Greenwood that he obtained his common school education and his initial experience as a clerk in a mercantile establishment of the first named city. He was still a youth when the home of the family was transferred to Talihina, Indian Territory, where he was employed by Thomas Brothers and by the King-Rider Lumber Company, of Thomasville, Oklahoma. In 1901 he removed to the new station of Hugo, on the Frisco Railroad, in November of that year assuming the management of the S. B. Spring interests in the old town site on the "west side." Mr. Needham remained thus employed until the west and the east sides were consolidated, when he was appointed postmaster, being the second to hold the office. He was appointed nine months after the establishment of the office and soon after the two "sides" were consolidated the office was located on

the east side of Broadway, where it remained until June, 1905, when it was removed to its present site in the First National Bank building. His training and experience admirably fit him for his official duties, and his administration has been characterized from the first by prompt executive methods and businesslike management. His first appointment was in 1902 and his second in 1904, when the office became a presidential one, and in January, 1909, he received his third appointment, and he has therefore been responsible for the conduct of the rapidly expanding postal service at Hugo for the past seven years. The postmaster has always been a firm Republican and sees no reason why he should change his politics at this or any other time. He is a thirty-second degree Mason and an earnest member of the fraternity. On June 11, 1902, Mr. Needham was united in marriage with Miss Nettie McMurtrey, daughter of Thomas H. McMurtrey, a native of Missouri, and for some time a farmer and merchant at Hackett City, Arkansas, who died at Hartshorn, Oklahoma. Mr. and Mrs. Needham's children are Helen, Herbert and Frank Frantz Needham.

J. Henry Wright was widely known for several years as a member of the firm of Wright Brothers, whose extensive operations in the pineries of Arkansas and the Choctaw Nation brought them both fortune and high repute. He is now a leading citizen of Hugo, Choctaw county, and although he has personally retired from the active manufacture of lumber he has an interest in the Lawless and Wright mill five miles north of the city. He is also a director in the Carson Lumber Company and in the Hugo Wholesale Grocery Company, and is somewhat extensively interested in city property.

The Wright family is of Irish origin, the grandfather of J. Henry coming from the mother country to South Carolina, where both himself and his wife passed their last years. Andrew Wright, the father, was born in the Palmetto state in 1812, married Lavonia Ward and coming to Cleveland county, Arkansas, located on a small farm there and reared a family of three sons and two daughters to useful and honorable lives. J. Henry Wright was the second child and son, and was born July 26, 1865, nearly his entire business life being identified with that of his elder brother, Andrew J. He received scant education in the school room, but when as a youth he left the home farm to labor in the pine woods of the vicinity he was a rugged, self-reliant and useful unit of the community. He had worked in the cotton fields at such low wages as one dollar and twenty-five cents per day and the wages which he received as a lumberman seemed like a stroke of good fortune. He steadily clung to his position until he was rewarded with a foremanship and better wages. Within a few years he took a contract for getting logs to the mill by the thousand feet, which so improved his financial condition that before long he was able to enter into a partnership with his brother in the manufacturing branch of the business. They purchased a small sawmill, largely on time, which burned to the ground before they had made much progress in meeting their notes, but their credit was good, and they soon had another and a better plant in operation. Their operations became widely extended and so profitable that within two years they removed from Drew county, Arkansas, to the Choctaw Nation as men of virtually independent means. Their operations there were even broader and more remunerative, and at one time they controlled some twenty thousand acres of timber land, with several large sawmills in constant operation. In 1906 they disposed of their lumber interests and became identified with the advancement of Hugo. They have built several of the best brick blocks in the city, and in 1909 they bought a three story brick block for forty thousand dollars and are adding another fifty foot front to it, which will make it one of the best in Hugo.

On May 17, 1894, J. Henry Wright was married in Cleveland county, Arkansas, to Miss Maud Word, a daughter of Lee Word. The other children of the Word family are Sandy, Della and Ruth, who reside at Fort Towson, Oklahoma. The children born to

Mr. and Mrs. J. Henry Wright are Sidney, Lone and Ora. Mr. Wright is a Mason and a member of the Hoo-Hoos.

ANDREW J. WRIGHT, who is president of the Hugo Wholesale Grocery Company, is a pioneer merchant of that city and one of its large property owners, and for many years before becoming a resident of Hugo he was extensively identified with the lumber and sawmill industries of Arkansas and Oklahoma. He was born in Cleveland county, Arkansas, October 12, 1861, son of Andrew and Lavonia (Ward) Wright, and the family is of Irish descent, the American forefathers first settling in South Carolina.

Mr. Wright was reared on his father's Arkansas farm, obtained but a meager education at school, and lived upon the paternal homestead two years after he was married or until 1887. He then sought the forests as a wage earner, felling trees, logging and working on the tram roads, advancing gradually to contract work and an interest in the sawmill. His partner in the last named enterprise was a brother, the two acquiring the plant largely on credit, and the mill was destroyed by fire before much progress had been made in paying for it. But with the establishment of credit another mill was erected and the manufacture of lumber resumed. A practical knowledge of the business from the stump to the manufactured article enabled the brothers to make steady progress, and as the conditions of the market were also in their favor their profits were so large that they continually enlarged their mill capacity as well as accumulated a good capital for operative and developing purposes. When they removed from the pineries of Drew county, Arkansas, to the Choctaw Nation to identify themselves with its commercial, industrial and mercantile interests they were possessed of abundant means to prosecute any enterprise in which they might engage. At first they established the Arkansas and Choctaw Mercantile Company in the old town of Hugo, and while still expanding that business commenced to invest their available cash in tracts of Indian pine timber lands at low government prices. Finally they built a sawmill and, as an experiment, began to cut out a forty-acre tract. The resulting profits so astounded them as to urge them on to make larger and larger purchases until they had acquired some twenty thousand acres. They also erected numerous sawmills, and their enterprise developed to such proportions that when it was turned over to other hands in 1906 the three partners found themselves comparatively wealthy men.

On becoming a resident of the new town of Hugo Mr. Wright purchased a large share of the Wright Lumber Company, of which he is an officer, and later became one of the chief stockholders in the Hugo Wholesale Grocery Company, of which he is president. In company with his brother he also built one of the first brick stores in the place, and there they conducted their business. A second brick business house was erected by Mr. Wright in 1907, and in 1908 he built the third brick edifice. In 1909 he and his brother bought a three story brick building fifty by one hundred and forty feet, which had just been completed, and to this they are adding another brick, one fifty by ninety feet. In all the brick structures built by Mr. Wright and partners aggregate two hundred and seventy-five feet frontage. He has also built a home and other residences in Hugo, and is classed as one of the leading promoters of the place. He is also a director in the First National Bank of Hugo. His connection with politics is confined to his regular casting of a Democratic ballot, and outside of the domestic circle his social functions are associated with the well-known lumbermen's club, the Hoo-Hoos.

The grandparents of Andrew J. Wright were born in Ireland in the early days of the United States as a nation, founded a new home in South Carolina and became the parents of Andrew, William and Nancy. Andrew was born at Rock Hill, that state, in 1812, married Lavonia Ward and moved to Cleveland county, Arkansas, and on the small farm and in the tiny log cabin which comprised the family homestead were reared the children born into the household, viz.: Andrew J., of this

notice; James Henry, a prominent business man of Hugo; Martha, who died in Arkansas, as the wife of W. M. Logan; Robert, of Cleveland county, Arkansas; and Louisiana, Mrs. E. E. Lenhart, of Coal Hill, Arkansas. In December, 1885, Andrew J. Wright wedded Miss Nettie Tucker, daughter of Joseph Tucker, a farmer and pioneer of that state, and who for many years was an old-time bear hunter. Mr. and Mrs. Wright are the parents of Maud and Andrew J. Wright, Jr.

Lee W. Ratliff, one of the prominent farmers located near Hugo, Choctaw county, and a member of its board of county commissioners, has resided within the limits of what is now Choctaw county for the past twenty years. He came to this locality when it was a portion of Kiamichia county, Choctaw nation, in 1889, and established himself as a farmer near Goodland, which was then a little trading place for this section of the country. When Hugo was established as a railroad town he found himself in a favorable position just northeast of what promised from the first to be a flourishing place.

Mr. Ratliff is a native of Attalla county, Mississippi, in which he was born December 19, 1862. Four years later the family moved to Lee county, Texas, the father engaging in farming there until the removal of the family to Waco, Texas, in 1890. There the father still resides, the mother having past away in Lee county. The son received his education in the common schools of the county named, and in his youth roamed over various sections of New Mexico, Colorado and Wyoming as a cowboy and ranch hand. After five years of this unsettled life the youth came to the Choctaw nation, without capital, but with a practical knowledge of farming and all the duties connected with stock raising. One year afterward he married a citizen of the nation and thereby gained all the property rights attached to such a union. In the early years of his agricultural career he gave more attention to grazing than to farming, the raising of horses and cattle being his specialty; but the land on which he conducted his operations being on the broad prairies, adjacent to Goodland, he finally allotted a half section of the domain over which he had ridden and grazed herds for so many years. In due time the Choctaw nation gave him a patent to it, and this locality is still his home. This active life brought Mr. Ratliff into close and broad touch with the settlers of his section of the state, and he secured their confidence and high esteem. He had become somewhat active in Democratic politics, and consequently in 1907, when Oklahoma assumed the dignity of statehood, he became a strong candidate for county commissioner of his district—so strong, in fact, that he easily won the nomination and was elected by a vote of nearly two to one. Fraternally he is a member of the Masons and the Order of Eagles.

John W. Ratliff, the father, was born in Attalla county, Mississippi, in 1824, and was a slave owner before the Civil war, and in that conflict served in the Confederate army. The paternal grandfather, John Ratliff, lived for many years in Mississippi, and died there, having reared as children of his family—Thomas, who died in Lee county, Texas; Benjamin, who was a Confederate captain during the Civil war, and is still living; Zachariah, of Attalla county, Mississippi; George, of Ft. Worth; and Mary, who married a Mr. Tucker and left at her death in Mississippi a number of children. The children born to J. W. and Mary (Wallace) Ratliff were as follows: Allison, who resides in Waco, Texas; Lee W., of this review; Lulu, wife of Charles Ramey, of Waco; and Z. S., of Ft. Worth. On January 8, 1890, Lee W. Ratliff wedded Miss Sophia Spring, a daughter of William Spring, and a cousin of Joel Spring, who is known as the father of Hugo and a Choctaw citizen who made himself conspicuous in business and prominent during the pioneer period of the city. William Spring married a Miss Le Flore, a representative of one of the most prominent Choctaw families and who have for generations contributed to the tribe its hereditary chiefs. Mrs. Ratliff died October 29, 1906. A daughter of Mrs. Ratliff's

sister has been reared in this household and, as Emma Ratliff, is widely known and respected.

DR. HAL H. WHITE, of Hugo, Oklahoma, has a record well worth preserving in the annals of his state. He was born in Jackson, Tennessee, November 22, 1877, a son of Hugh L. White, a lifelong resident of Jackson, where he was born in 1842. There he was liberally educated, and was in General Forest's cavalry command during a portion of the great Civil war. His father was James White, a farmer, whose education was received in Union University in his native state. He was a Virginian and married Hattie Bryant. Their children were Hugh L., Andrew C., Thomas J., Henry W., George W., all of Jackson; Samuel C., deceased; Lucy, who married a Mr. Williams and died in Trenton, Tennessee; Delia, who married G. R. Gooch, of Tennessee; and Pattie, wife of G. L. Wilkinson, of Jackson.

Hugh L. White is widely known throughout the country as a real estate dealer, in which business he has been engaged from early manhood, and while not active in politics, he affiliates with the dominant party of his county and manifests a warm interest in the varied municipal affairs of his town. He was married to Elizabeth F. Glenn, daughter of H. C. Glenn, a real estate man and an early settler, near Jackson. Mr. Glenn married Elizabeth Hunt, served in the Confederate army, and died in the community where his life was spent. The children of Hugh L. White and wife are: Dr. Hal H., of this sketch; Leone, wife of Norvel Menzies, of Jackson, Tennessee; Robert B., William G. and Menelle, all of Jackson.

The literary education of Doctor White was obtained in the Southwestern Baptist University of Jackson, Tennessee, doing the work of the course up to the senior year. He selected medicine and began the study of this science in the office of Dr. J. T. Warford, of Jackson. He entered the University of Louisville, Kentucky, and finished the medical course there March 28, 1901. At first he opened an office at Macon, Tennessee, and from that point came to Hugo, where his professional life has since been passed. He belongs to the Texas State and the Lamar County Medical associations and to the Choctaw County and Frisco Medical associations. He is the local surgeon for the Frisco Railway System, and took a post-graduate course at the New York Polyclinic in 1907. He has served in the Hugo city council and city board of health, and politically the Doctor is a Democrat. He is a member of the Masonic fraternity, and is progressive and public-spirited.

Of his domestic affairs, let it be recorded that he was married May 22, 1902, to Miss Wayne Thornton, of Jackson, Tennessee. Mrs. White's parents are Joseph and Avery (Tucker) Thornton, who have two other children—Cecil, of St. Louis, Missouri, and Hazel. Mr. Thornton was for many years agent of the M. & O. Railway at Okalona, Mississippi, and passed his life in the railroad service. Dr. and Mrs. White have no children.

The Doctor is truly a representative of the medical fraternity of the great and growing southwestern country, and stands for all that is good and scientific in his profession.

JOHN W. MILAM, of Hugo, Oklahoma, and county clerk of Choctaw county, came to Oklahoma in 1896 from Lamar county, Texas, where he grew from a boy of twelve summers, going there in 1874 from Talapoosa county, Alabama, with his parents. He was born in the latter county, February 25, 1862, and in 1869 the family removed to Marshall county, Tennessee, and spent five years prior to their removal to Texas. The farm was the scene of their activities, and the good parents brought up their children in comfort but not in luxury and idleness. Industry was the family motto, and while great wealth was not achieved, the necessaries and many of the comforts of life, in addition to the public education of their children, were among the blessings obtained.

The father, James L. Milam, was a Georgian by birth, born in 1836, a son of Lewis Milam, who passed away in Talapoosa county, Alabama, when young, leaving a

family of two sons and nine daughters. The family left Georgia in 1854 and settled in Talapoosa county, Alabama, from which locality James L. enlisted in the Confederate army during the great Civil war. He was assigned to the shoe shop at Columbus, Georgia, and there put in all of his time at making shoes for the army. He was united in marriage in Alabama to Martha Dunn, who died in 1899. She was of Irish ancestry, and was the mother of David C., of Uvalde, Texas; Mary K., wife of G. S. Wilson, of Lewisburg, Tennessee; Martha J., wife of W. R. Patterson, of Texas; Laura E., who married John A. J. Hooten, of Jones county, Texas; John W., of this review; Benjamin F., of Prattville, Texas; Sallie L., now Mrs. George Cantrell, of Uvalde, Texas; James L., Jr., of Enloe, Texas; and Thomas M., of Uvalde, Texas.

As the common schools were all the institutions which Mr. Milam had access to when a boy, his education was of such as could there be afforded. He remained at home until past his majority, then went to Paris, Texas, where he secured a position with J. D. Elliott & Company, merchants, but later went with Bell & Jones and J. R. Snow. Next he went back to Arthur, Texas, with W. R. Douglas, but leaving there in 1896, he came to the Territory and spent five years with Miller, Nelson & Company, of Grant. Next he was attracted by the independence of the farmer, and was so employed, operating on leased lands near Hugo, when he was named by his party for county clerk and was elected. He has always been identified with the Democratic party, in whose principles he has ever believed. He made the race against one competitior, and was elected over his Republican opponent by a majority of five hundred and three votes, taking his seat November 16, 1907.

He was happily married at Mooresville, Tennessee, January 14, 1885, to Jennie, a daughter of Willis Perry, a farmer. Mrs. Perry was a Miss Flannigan and was the mother of seven children. Mr. and Mrs. Milam are the parents of Delbert, deceased; Everett L.; Souella; Mamie, deceased; Nellie; John W.; Ethel, and Mabel.

In his fraternal connections Mr. Milam is a member of the Masonic order, the Woodmen of the World, the Modern Woodmen of America and the M. P., and is popular and highly efficient in his public duties.

BURGOYNE BROTHERS.—Don C. and Oliver H. Burgoyne, constituting the firm of Burgoyne Brothers, who are extensive lumber dealers in Oklahoma, and whose place of business is at Hugo, will form the subjects of this memoir. They represent in their personalities the successors of one of the pioneer hardwood timber dealers of the Indian Nation, John W. Burgoyne, who was for years actively engaged with those interests, but has now retired to his estate at Tuskahoma, near where the evening of his life is being spent.

Of the son Don C. Burgoyne let it be stated that he was born near Danville, Illinois, March 2, 1870, while his brother, Oliver H., was born October 22, 1868. They are the sons of John W. Burgoyne, born at Zanesville, Ohio, in 1839. The father grew to manhood at Kokomo, Indiana, at which place he obtained his education. He settled near Danville, Illinois, just prior to the Civil war, and enlisted in the Thirty-fifth Illinois Infantry Regiment, serving four years, and was captured by the Confederate forces and imprisoned at Andersonville, sent later to Florence, South Carolina, and finally incarcerated in the old Pemberton building in Richmond, Virginia, and was there in the old tobacco warehouse when the Civil war had ended, having been in prison nine months. Although he was ever on the alert to try and make good his escape, and did succeed in getting out of the prison walls three times, each time he was returned by the aid of bloodhounds, and was liberated only when the power of the Confederacy had forever been broken.

On January 3, 1867, John W. Burgoyne married Jennie Hawkins, who was born in Richmond, Indiana, October 10, 1843, a daughter of Nathan and Sarah (Wright) Hawkins, both born in Richmond, Indiana, the father April 8, 1808, and the mother in 1812. They were married January 1, 1829.

The Hawkins family came from near Charleston, South Carolina, and settled in Richmond, Indiana, in 1807, in what is now known as Glenn Miller Park. Both the grandfather and great-grandfather of Mrs. Burgoyne were named John and were Quakers. Nathan Hawkins built a sawmill in Wayne county in 1836, one of the first in that vicinity. John W. Burgoyne took up the vocation of a farmer at Catlin, Illinois, moving into Danville after some years, and from there conducted his agricultural and other interests. In 1880 he built a steamboat on the Wabash river, at Perryville, Indiana, and ran it down that river, the Ohio and the Mississippi and up the Arkansas and Verdigris rivers to the head of navigation on the last named stream, and there took the machinery from the boat and used it for power in operating a sawmill which was among if not the first mill of the kind within the Creek Nation.

From 1880 to 1892, when he retired from business and was succeeded by his capable sons, whose names head this sketch, he was a prominent factor in the hardwood timber industry of the Indian Territory. Here he established a business and a reputation which were both widespread. The consumers of his materials throughout the United States came to know of him and the character and quality of his lumber products. Being in touch with all the great southwest country, he very naturally drifted into the cattle business. His grazing interests became only second to his timber interests. After he had amassed a handsome competency for himself and family he established a ranch five miles from Tuskahoma, where he may now be found with his herds of blooded cattle and thoroughbred swine, in the supreme enjoyment of the rich proceeds of his long years of effective toil.

Such was the character of John W. Burgoyne that Indians and whites alike regarded him highly. He was a man full of sympathy and true kindness in an early day when men's souls were frequently tried. The brave, self-sacrificing frontiersman never interfered, but stood bravely by all of his measures and industries. If he learned of a stranger over the mountain hungry and without a shelter he made it his business to go to him with food first, and to look after his general comfort. When a case of illness developed in his neighborhood he was first to see that the patient was cared for and that neglect was a thing unknown in his cabin. He loaned to and borrowed from his neighbors from the day he landed on the banks of the Verdigris river to the day when he was retired to the quiet of his home ranch at Tuskahoma.

That the reader may know from whence this truly noble-hearted character emanated it may be added that the ancestry was from old Virginia. His father was Henry Burgoyne, who died in Ohio and who reared a family of five daughters and four sons: James, of Danville, Illinois; Evan, of Labetta county, Kansas; R. L., of Buffalo, New York; John W., of this memoir; Sarah, wife of John Stockton, of Danville, Illinois; Duhana, who married William Hawkins, of Catlin, Illinois; Mahala, who married William Woods and is deceased; Matilda, who married William Woods and died at Kokomo, Indiana; and Elizabeth, who married a Mr. Russel and is deceased.

Don C. and Oliver H. Burgoyne were educated in the public schools of Danville, Illinois, and it was during the summer vacations back in the eighties that they first became connected with the timber business of the Indian Territory. They became associated with their father permanently about 1884, and succeeded to his large interests when he retired. Their business is the outgrowth of that established at the crossing of the Verdigris and the M., K. & T. Railroad, near Eufaula, and a system of mills has sprung up from time to time, one being at Bennington and the others at Boswell, Hugo and Idabel. The output of these various mills finds its market in all parts of the United States and in many foreign lands. Germany, England and other European countries and some of the South American states have been consumers of the walnut and other lumber handled by this firm. Although the father had built up one of the largest business concerns of his times, the sons have extended it and are now second to none in Oklahoma as dealers in hardwood mate-

rials. In virgin timber days in this territory their father was known as the king of walnut log men, but of recent years, piling, ties, poles and other heavy timber, in addition to ash lumber and quarter-sawed oak, constitute the chief feature of their immense stock.

The Burgoyne Brothers are also dealers and developers of real estate in and near Hugo. They platted and put upon the market "Burgoyne Brothers' Addition" to the city, and laid out Mt. Olivet cemetery, a mile and a half east of Hugo. They also own a fruit farm near the city, which produces pears and peaches. They also have general farming interests in the Chickasaw Nation.

Oliver H. Burgoyne is unmarried, but Don C. was married June 1, 1907, to Jennie, a daughter of Martin Barnes, a lawyer of Bonham, Texas. The issue of this union is a son, John W. Burgoyne. The Burgoyne family is Republican in its political views, the father having conducted the Republican campaign in Pushmataha county in 1907 as chairman of the county committee. They are all "Hoo-Hoos" and have attended the meeting of the National Association of Hardwood Lumbermen. Don C. is a Mason and Oliver H. is an Elk in fraternal connections.

WILLIAM H. HARRIS, vice president and manager of the business of the Womack Mercantile Company, of Hugo, is one of the able young business men of this section of the state, and has charge of the largest mercantile concern in Choctaw county. He is a native of Lamar county, Texas, born on the 11th of January, 1871, a son of John and Mary (Reed) Harris. The father was born in North Carolina in 1823; when a young man removed to a farm near Lebanon, Tennessee; married in that locality, and during the Civil war settled as a farmer in Lamar county, Texas, where both parents died. The surviving issue of this marriage is as follows: John, a resident of Blossom, Texas; Isham Green, a physician connected with the Hudson River State Hospital at Poughkeepsie, New York; and William H. Harris, of this sketch.

After the death of his parents William H. Harris was taken back to his Tennessee relatives, with whom he remained for three years, returning to Texas when he was thirteen years of age, and until his twentieth year being chiefly occupied in getting an education. In pursuance of the latter he attended the public school at Honey Grove, Texas; Washington and Lee University, at Lexington, Virginia, and the high school at Blossom, Texas. His first work outside of the schoolroom consisted of chopping and picking cotton, and for about two years he himself engaged in farming. In 1894, however, he commenced to teach country school, and after two years in this employment secured a clerical connection with the Womack firm in Blossom. He remained identified with this business until 1903, when he became connected with Penick & Ford, of Shreveport, Louisiana, as a traveling salesman, handling sugar and molasses. The three succeeding years were passed in their employ, and he then became identified with the establishment of the Womack department store, and as its manager is mainly accountable for its signal success. He is not only the active superintendent of its business, but is a stockholder in the concern. Outside of his business activities Mr. Harris is known as an influential fraternalist. In 1892 he was initiated as a Mason in Blossom Lodge No. 303; has taken the Blue lodge work, and is also connected with the Modern Woodmen of the World.

On January 9, 1904, Mr. Harris married Miss Florence Whitlow, a daughter of Dr. and Mrs. F. M. Whitlow, of Hickory Plains, Mississippi, where Mrs. Harris was born. Mr. and Mrs. Harris have two children, Frances M. and Hetty Lou. Mrs. Harris is a member of the Methodist church at Hugo.

ANDREW J. STEEN, county treasurer of Choctaw county, whose home residence is at Boswell, has been identified with the progress of this section of southern Oklahoma for the past five years. He is a native of Alabama, born in Lauderdale county, August 10, 1874, being the son of Christopher Y. Steen, a South Carolina farmer, who re-

moved to the former state, married twice, and in 1882 migrated to Texas, dying in Hopkins county of that state in 1885. The son, Andrew J., was reared and educated in an humble country home, the country schools of Hopkins county furnishing him with his mental training. As his father died when he was eleven years of age, he early became a self-supporting member of the community. He was mainly engaged in agricultural pursuits until 1903, when he located at Boswell and engaged in the livery business. Later he became a grocer and, as his influence and finances strengthened, one of the organizers and stockholders in the Boswell Mercantile Company. After a time he disposed of his interest in the latter and, with a brother, embarked in the grocery business on a more extended scale, withdrawing from this field only when making preparations to assume the duties of the county treasurership.

Mr. Steen's entrance into politics dates from his election as tax assessor and collector of Boswell, and during the time of service in that capacity he was chosen a member of the city council for a term of two years. He relinquished these offices when he became a candidate for his present position at the first election under the state government. One of four candidates of the fifteen hundred votes cast at the Democratic primaries, Mr. Steen received six hundred and defeated his Republican opponent at the general election by a majority of more than five hundred. Since the performance of his official duties has necessitated a residence at Hugo, Mr. Steen has purchased a comfortable home and other valuable property at the county seat, and is a firm believer in its continued and greater prosperity. In Masonry he is now a candidate for the Scottish Rite.

On July 10, 1892, Mr. Steen married Miss Nancy E. Ellis, who was born in Alabama, a daughter of W. M. Ellis, also a native of that state. Mr. and Mrs. Steen were the parents of one child, Lola, who was born May 5, 1903, and died October 5, 1903.

Christopher Y. Steen, the father, was born in 1815, and by his first wife became the father of John, now of Lauderdale county, Alabama, and an ex-Confederate soldier; Howard, who died in Alabama, without family; Hannah, who married James Butler and died in the same state; and Mary, who became the wife of William Porter and is a resident of Van Zandt county, Texas. For his second wife Mr. Steen married Miss Edna Wilson, and the children of this union are as follows: Robert. L., a resident of Hugo, Oklahoma; Christopher C., of Boswell, that state; Fannie, widow of Thomas Taylor; Adaline, Mrs. W. R. McCafferty; Andrew J., of this sketch; Nannie B., who married Frank Stewart, of Boswell; and Wilson Steen, now clerk of the county court of Choctaw county.

JOEL SPRING, who died at Hugo, February 21, 1908, was one of the founders of the new metropolis of southern Oklahoma, and was a man whose genius and honor displayed themselves in whatever direction his efforts were spent. His part in the founding of the city was so broad and enduring that the "Hugo Husonian" voiced the popular sentiment in the following words: "As a town builder and a developing force he was without a peer in southern Oklahoma. He was a person of wealth and resource and owned much property in this city. During the past five years he erected seven large brick buildings here, all of the very best and constructed with a view to permanency, majestically beautiful, and an ornament to a city of many thousand people. As are all great men, he was at times subjected to unjust criticism, but when a task was completed no fault could be found with it. He was charitable and liberal, giving freely to the construction and maintenance of the churches and other moral institutions. At one time, several years ago, the Methodist church was advertised for sale to liquidate its indebtedness, and it was Joel Spring who came to the rescue. He made a large donation and placed the then struggling band upon their feet, and that with only an expression of regret that they had not made him fully conversant with conditions before resorting to such extremities. By spending his money so freely to develop the town

he encouraged others to do so; and he was in deed and in truth the 'Father of Hugo.' However great it may become in the future will be due to his efforts in its struggling pioneer days. Some day, when Hugo shall have become a large city, we wish to stand on one of our principal streets with uncovered head before an imperishable statue dedicated to the memory of this tireless man who was such a great factor when the town was in its infancy."

Joel Spring was born within three miles of where Hugo now stands, on the 2nd of February, 1863, and was therefore only forty-five years old at the time of his death. He came of most remarkable lineage. His grandfather, Christian Spring, was born in Switzerland of German parentage, was educated in Germany and gave the legal period of his life to the military service. Later he was a commissioned officer in the army of Napoleon, and after Waterloo emigrated to America, landing at New Orleans, drifting into Mississippi and marrying Susan Bohannan, a lady of French-Indian extraction. His son, Samuel Spring, married Elizabeth Le Flore, who was a representative of the family which for generations had furnished the Choctaws with their hereditary chiefs. Of this family was Greenwood Le Flore, the author and negotiator of the celebrated Dancing Rabbit treaty of 1830, of whom President Jackson said "there is no greater statesman among any people." The marriage of Samuel Spring and Elizabeth Le Flore is by no means a rare instance of the union of good European and Choctaw blood caused both by the fall of Napoleon and the French revolution, with the consequent emigrations to the United States. Mrs. Joel Spring is a granddaughter of Governor Basil Le Flore, and she and seven children survive the husband and father. The father of the deceased was a Confederate soldier who died in the service during the year of his son's birth, and who never saw his child. His mother also died when he was young, and he was taken into the home of his uncle, the late "Uncle" Billie Spring, who when the lad was about twelve years of age sent him to old Spencer Academy. But the schoolroom became irksome to his restless disposition and he ran away to Texas, wandering to the vicinity of Whitewright, where he met a kindly farmer named M. E. Savage, who took a liking to the boy and induced him to assist him around the farm and household for two years. He then returned to his home, and after working for his uncles for some time began clerking for V. M. Locke, near Antlers, now in Pushmataha county, southeastern Oklahoma. Later he bought a small store on Roebuck Lake and then formed a partnership with his uncle, Billie Spring, the business being removed to the old Rock Wall place, a short distance south of the present site of Hugo.

On September 20, 1883, a short time after making this business arrangement, he married Miss Winnie Gooding, daughter of H. L. Gooding, of Old Goodland, the groom being nineteen years of age and the bride fifteen. The wife brought as a dower a small herd of cattle, which were sold and the proceeds used to purchase Uncle Billie's interest in the store. The store was reestablished at Roebuck Lake, and the youthful couple began housekeeping in a one-room log cabin. This was the commencement of Joel Spring's real life, and henceforth he was always a progressive, dependable, high-minded member of the community—one of few words but of many and honorable deeds. From the commencement of his business career he was a model of method and precision, as an examination of his early business books and records clearly shows. From Roebuck Lake Mr. Spring removed to Clear Springs Court Ground, about two miles west of the present Hugo and then the seat of Kiamichia county. After the building of the Frisco Railway through that section of the country he removed his business and his household to Goodland, where for years he conducted one of the largest mercantile establishments in the Indian Territory. When Hugo was established in 1902 he quickly saw its great promise and located there as one of its first merchants, and certainly its most prominent business man and citizen. He at once acquired an interest in the town site on the east side, erected a large, attractive and beautifully furnished residence

on an eminence in that part of the city, built a number of the most substantial business houses of the place, and in every practical way showed his unbounded faith in Hugo and its people. And the feeling was heartily reciprocated, for citizens and countrymen trusted in his justice, integrity and generosity with unbounded faith, placing often in his keeping their property and their future with no security other than that of his long-tried character. He became the friend, adviser, banker and father of the entire community, but with all his later affluence and unique standing he always cast an affectionate eye over the struggling days of his early life. On the walls of his beautiful residence in Hugo is a reproduction of the tiny log cabin in which he commenced married life on the banks of Roebuck Lake, showing the proud nineteen-year-old husband standing in the yard and his fifteen-year-old bride in the doorway. The children of Mr. and Mrs. Joel Spring are: Joel, born January 24, 1888; Lawrence E., December 13, 1889; Jesse H., August 4, 1891; Winnie, November 20, 1894; Dewey L., May 14, 1898; Robert M., October 27, 1899; and Cicero O., December 23, 1903. The widow and her family of maturing children have every reason to take the highest pride in the career and enduring works of Joel Spring.

James Houston Jackson, cashier of the Hugo National Bank, is one of the progressive men of that place and a promoter of both the substantial and the higher interests of Choctaw county. He is a Mississippian, born in Pontotoc county on the 30th of December, 1872. His father, Churchwell C. Jackson, is now a merchant of Hugo, having been a farmer during his mature years until 1892. He is a native of Cherokee county, Alabama, born in 1847; as a boy, fought in the Confederate army toward the close of the Civil war; removed first to Mississippi, and to Deport, Texas, in 1892. It was at this place that he first entered the mercantile field, and in 1902 established himself as a merchant at Grant, Oklahoma, and in 1908 located at Hugo. The Jackson family is of Irish lineage, James, the grandfather of James H. Jackson, being an Alabama slave owner of the olden time, and a near descendant of the founder of the American branch. He left that state about 1853, and died in Mississippi, the father of six children. His son, Churchwell C., married Miss Anna Simmons, daughter of John Simmons, also of Irish blood and a Mississippi planter. Three children were born of this union: Cordelia, now the wife of Wallace Hill, of Hugo; James H., of this sketch; and Alma Jackson, also a resident of Hugo.

The boyhood of James H. Jackson was spent in Mississippi and Texas, his education comprising courses in the public schools and literary and commercial courses at Paris, Texas. He began his career as a working member of the community in the capacity of overseer of negroes on a Red River county plantation, afterward becoming a partner of his employer in the mercantile establishment of the farm and the active manager of the business. He was then identified with the wholesale drug business for five years, and filled the position of a traveling salesman for some time before he located in Hugo as assistant cashier of the National Bank. A year later he was promoted to the cashiership, and the detailed management of the affairs of the institution devolved upon him.

The Hugo National Bank was organized in June, 1905, and is officered by J. F. McReynolds as president, J. H. Jackson as cashier, and B. A. Nelson as vice president. The board of directors is composed of the officers named, with J. W. Wood, J. W. Davis, J. H. Miller, T. L. Griggs, George Y. Harris and W. H. Carson. In his capacity of cashier the practical management of the bank in all its details is entrusted to Mr. Jackson, and its progress and standing indicate that he is fully equal to the pressing and varied duties which have devolved upon him. The erection by him of a fine cottage home on Cherry and Wade streets is also evidence that his residence in Hugo has proved both pleasant and profitable. In politics Mr. Jackson is a Democrat; in his fraternal relations, a Mason; and in his religious faith, a Baptist. He was married in Red River county, Texas, on the 30th of July, 1902, to Miss Helen B. Caldwell,

daughter of T. Butler Caldwell, a Texas pioneer who married Minnie, a daughter of Marshall Hooks. The other Caldwell children are Hooks Caldwell, agent of the Frisco road, Randolph, Oklahoma; and Frank, Bee and Blake, residents of Hugo. Mr. and Mrs. James Jackson are the parents of Bertha, born May 20, 1903, and Dorris, born May 15, 1905.

BITHEL A. NELSON, of Grant, and a member of the mercantile firm of Miller-Nelson Company, dates his advent to Oklahoma from 1887, when he took a position as clerk at Doakesville, but after two years returned to Texas and passed four years as manager of the mercantile house of J. H. Johnson, of Jonesboro. Save for this incident he has been an Oklahoman for the last quarter of a century, for he then came to the state line and was in charge of the store of W. R. Douglas, and then crossed the river and took up his permanent abode in Grant. At this juncture the firm of the Miller-Nelson Company was organized, and has continued to successfully operate ever since as one of the chief factors of the place.

Mr. Nelson was born in Murray county, Tennessee, August 1, 1863. William D. Nelson, his father, was born in the same state in 1838, served as a private in the Confederate army, and in 1869 left the state and located at Paris, Texas, where he resided until the death of his wife, when he soon took up his residence with his son in Grant. His father was John Nelson, who died in 1842 at Columbus, Tennessee. William D., the father, married Virginia Moss, daughter of Thomas J. Moss, a farmer in Tennessee. Mrs. Nelson passed away in 1900, after becoming the mother of the following children: Bithel A., of this sketch; Sue, widow of William H. Williams, of Paris, Texas; W. E., of Galveston; Tom, who married T. Johnson, of Denison, Texas, a conductor on the K. T. railway system; Maud, deceased, who married Rue Davis, of Denison; and J. W., a clerk with Miller-Nelson Company.

Bithel A. Nelson attended the common schools, and when eighteen years of age began life for himself in the role of a clerk for J. H. Bywaters, of Paris, Texas, from whose employment he went to work for W. R. Douglas, and finally entered the territory and took the position at Doakesville, where he was located at the commencement of this narrative.

He commenced life's work single-handed and without capital save his own hands and a determination to do and accomplish something in the great busy world. His first net earnings he invested in a stock of goods, wishing to do business on his own account. By careful, correct business methods he has been enabled to forge his way to the front rank among his fellow workers. Among his large enterprises at Grant may be named the two cotton gins, of which he is the present manager, and his farming has also been successfully carried on under his personal supervision. His landed estate, including his family allotments and purchased lands, constitute no small fortune in themselves. In political matters he carries the same thought and casts the same ballot as did his forefathers—the Democratic. He is a member of the Masonic and Modern Woodmen of the World fraternities.

He was married March 29, 1888, to Fannie, daughter of Charles D. Oakes, a citizen of the Choctaw nation. Mrs. Nelson is one-eighth Choctaw and is the mother of Albert J., Louise B. and Florence Nelson.

THOMAS W. HUNTER, of Hugo, clerk of the district court of Choctaw county, and for years one of the prominent young Indian citizens of the Choctaw nation, was born in old Blue county, September 18, 1869. His childhood and youth were passed on the home farm near Bennington, now Bryan county, and his early activities were those of the rural sort. Mr. Hunter obtained his education in the Indian schools of the Choctaw nation and at Roanoke College, Salem, Virginia, where he finished the work of the junior year. His father having died in 1887, the business of the family estate claimed his attention for some time after his return from college. When he left home it was to assume a teacher's position at Jones Academy, which he held for a year and a half, after which, in 1894,

he filled a similar position at Armstrong Academy for six years and a half.

In 1900 Mr. Hunter retired from his work as an educator and located on his country homestead, giving his attention to his farm and to the political and public affairs which had been obtruding themselves upon his time and abilities. He had enthusiastically supported the statehood movement, and in December, 1905, accompanied the delegation from Oklahoma City to the national capital for the purpose of assisting in the work of impressing upon Congress the importance of the early passage of an enabling act. After that measure was passed, in the following year Mr. Hunter actively participated in the selection of a delegate to the state constitutional convention, and entered the speaking campaign for the Democrats in two delegate districts. He repeated his effective work in the first state election, having been nominated for clerk of the district court against four competitors, and by a majority of six hundred and sixteen votes over his Republican opponent. Besides being prominent among the efficient officials of the new state, Mr. Hunter is a leader in fraternal activities. He is a member of the Blue lodge of Masons and has filled the office of junior warden in his lodge, and is also an Odd Fellow and an Elk. He is a man of large property interests in Choctaw county and is regarded rather as a citizen of affairs than one who is confined to any particular vocation.

Benjamin Hunter, the father of Thomas W., was a full-blooded Choctaw who settled in the Indian territory in 1832, with other members of his tribe who migrated from Mississippi. He established his homestead near Bennington, where he was engaged in farming and stock-raising until his death in 1887. He was a good and useful citizen, but was never drawn into Indian politics. Benjamin Hunter married Tennessee Risner, a lady of white blood and a native of the state after which she was named, the issue of their union being as follows: Thomas W., of this sketch; Mary J., wife of J. A. King, of Durant, Oklahoma; Emma, wife of E. T. Dwight, of Boswell, that state; and George Hunter, of the same place. On March 17, 1897, Thomas W. Hunter wedded Junia Folsom, daughter of Judge J. C. Folsom, of Atoka, Oklahoma, also a citizen of the Choctaw nation.

Dr. Walter N. John, a leading medical practitioner of Hugo, Choctaw county, has been prominently identified with the professional progress of this section of the former territory and the present commonwealth for the past fifteen years—in fact, ever since his qualification as an M. D. He comes of Welsh ancestry, his earliest American forefathers being pioneers in the settlement of Chester county, Pennsylvania, and his father, Rev. Isaac G. John, an earnest and powerful leader in the Methodist church and one of the founders of the faith in Texas. It appears that the first of the name to be recorded in American history was Griffith John, who emigrated from Wales with William Penn and settled in a colony of his countrymen in Pennsylvania. His son's name, in direct descent, is not known, but from the time of his grandson, Robert John, the genealogy is complete. The latter was a native of Chester county, married Asenath Fips and died in early life, leaving one son, Jehu John, who was also born in that county, December 2, 1759, and married Elizabeth David. Mrs. Jehu John was a daughter of Enoch and Elizabeth David and was born in Philadelphia, August 4, 1763. Her father, who was a native of that city, born in 1718, was a Baptist clergyman and died in 1795. In his youth Jehu John served in the Revolutionary war. After his marriage he removed to Fayette county, Pennsylvania, where Enoch John, one of his eight children, was born. The family afterward settled in Franklin county, Indiana, where the parents spent their last years. Enoch D. John was born February 7, 1791, and was married four times. His first wife was Eloisa N. Noble, daughter of Thomas and Elizabeth Noble, who was born December 29, 1791, and became the mother of Noah Noble and Eloisa Noble John. Nancy S. Stewart, the second wife, was the daughter of Abraham and Elizabeth Stewart, was born in Fayette county, June 8, 1799, died

in 1838, and was mother of four children: Anna D., Alfred S., Isaac G. and Rebecca S. The third wife of Enoch D. John was Rebecca Stewart, sister of his second wife, who died without issue, and his fourth marriage was to Sarah R. Parry, daughter of Thomas and Elizabeth Parry. The father himself died in 1872. It was after his removal to Franklin county, Indiana, January 14, 1827, that Isaac G. John, the father of Walter N., was born to Enoch D. John's marriage to Nancy S. Stewart. His birthplace was Evansville. In 1843, while still a youth in his seventeenth year, he migrated to Texas, prepared himself for the Methodist ministry at Ruitersville College, and in 1845 was ordained to the ministry and attended the first Methodist conference held in the Lone Star state. He was the founder of the "Christian Advocate" of Texas, serving as its editor for nineteen years, and for eight years was secretary of the board of missions of the Methodist Church South. Rev. Isaac G. John married Miss Ruth Alexander Eblen, born in Bastrop, Texas, on the 28th of August, 1833, daughter of George Eblen, of German descent and an early member of the Austin colony. His ancestral seat in the fatherland was on an island on the coast of the Baltic sea, and soon after coming to Texas he received a patent of a large tract of land, including the site of the present town of Lagrange, Fayette county. Rev. Isaac G. John died at Nashville, Tennessee, in April, 1896, and was the father of seven children, as follows: Alfred S.; George E.; Anna A., who married John Stone, a resident of Texas; Robert A., Ruth H., who became the wife of Richard Mood, also a Texan; Walter N., of this sketch; and Margaret S., who married John J. Morgan, also a citizen of the Lone Star state.

Walter N. John, who was born at Galveston, Texas, May 18, 1871, received his earlier education at Nashville, Tennessee, completing his high school course in that city. He then entered the University of Texas, graduating from its medical department with his professional degree, May 1, 1894. The following year was spent as an interne at John Seeley Hospital, Galveston, and in October, 1894, he located at Nelson, Indian Territory, to accept the government position of physician to the Choctaw school known as Spencer Academy. When the school building was burned in 1897 he established himself in private practice and remained at Nelson until 1902, when he located at Antlers Jack fort, now in Pushmataha county, Oklahoma. Dr. John practiced at that point until 1908, serving as county health officer and surgeon of the Frisco railroad, and in the year named became a resident of Hugo. He stands high with the profession and the public, and has a wide and popular connection with the fraternities, being a Royal Arch Mason, an Odd Fellow, a Pretorian and a Maccabee, as well as a member of the Woodmen of the World and Modern Woodmen of America. On February 15, 1899, the Doctor was united in marriage with Miss Otie Harris, of Clarksville, Texas, born December 10, 1879, a daughter of Frank M. and Nannie B. (Parks) Harris. The Harris family was originally from Virginia, Mrs. John's grandfather, Robert C. Harris, migrating from that state to the Red River district, Texas, in 1854. The father, Frank M., was born in the Old Dominion in 1850, and was therefore only four years of age when the family came to Texas. Dr. John and wife are the parents of the following: Lucy Beverley, born May 7, 1901; Mary M., born December 21, 1903; and Ruth E., born October 27, 1906.

JOHN A. PENINGTON, of Hugo, from its early history identified with the commercial interests of the city, and now register of deeds of Choctaw county, was born in Cooper county, Missouri, on the 14th of August, 1860, his parents removing soon afterward to a farm in Cumberland county, Kentucky. His parents were Fowler and Almira (Reynolds) Penington, and his father, who was a Tennesseean, died on the Cumberland county farm in 1872, aged about forty years. In 1880 the widow brought her family to Red River county, Texas, and she herself passed away in Lamar county, that state, in 1906, the mother of the following: James M., of Whitwright, Texas; John A., of this notice; Mary, wife of James Baize, of Fort

Worth, Texas; Sallie, Mrs. Creed Morris, of Cumberland county, Kentucky; William, who died unmarried; and Jackson W. Penington, who resides in Lamar county, Texas. The first American Peningtons were of English stock who settled in Virginia, two of the three brothers who emigrated thither becoming the heads of families. Jackson Penington, the grandfather, was a farmer of the Old Dominion who migrated to Tennessee, where he passed his last years.

John A. Penington virtually passed his life until he had nearly reached his majority on the old homestead in Cumberland county, Kentucky. There his father died when the boy was only twelve years of age, and it was in this neighborhood that he obtained his education, became familiar with all the work of the farm, and spent the years of his life until 1880, when, as stated, the family removed to Red River county, Texas. There the young man resumed the occupation he had learned from his father and conducted farming in a modest way until 1885, when he prepared himself for engaging in mercantile pursuits in Chicota, Texas. He located at that point in 1886, and for twelve years he sold goods there, when he removed to Indian territory, locating six miles west of Hugo, and for two years engaged in the stock business. In 1900 Mr. Penington returned to Texas, but after remaining two years in that state came to Hugo, then a new railroad town at the junction of the two Frisco lines, and established an agency for the handling of the goods of the Canton (Illinois) Implement Company. He had charge of the business until 1907, when he became identified with the Webb Mercantile Company, of Hugo, and in the summer of that year entered the race for register of deeds of Choctaw county. He had always been a faithful worker for the Democratic party, was thoroughly honest, popular, and a fine business man. The result of his candidacy was that in the nominating convention he received as many votes as were cast for his two opponents, and at the election was placed in office by the handsome majority of five hundred. His conduct of the affairs of his department has stamped him as a worthy official under the administration of the new commonwealth.

On May 22, 1889, Mr. Penington married in Lamar county, Texas, Miss Alice Haynes, who died in February, 1890, without issue. On September 11, 1892, he married at Chicota, Texas, Martha A. White, daughter of D. B. White. The other members of her father's family were: Mrs. W. A. J. Black, a resident of Lamar county, Texas; Robert, now deceased; Ida, who married J. W. Thompson, of Lamar county; Edward C., of Roswell, New Mexico; Bertie, deceased, who married R. R. Hicks; and Newton White, who is an Oklahoman. The children born to Mr. and Mrs. John A. Penington are: Harvey J., Winnie Alice, James Edmond, Lillian A., Katie L., John Allen, and Ethel Lynn Penington. Fraternally Mr. Penington is a member of the Woodmen of the World and of the Loyal Americans. The family are members of the Baptist church at Hugo.

Judge Thomas Chauncey Humphry, of Hugo, a foremost lawyer of the Oklahoma bar, an able jurist and an honored citizen, was born in Scott county, Arkansas, December 20, 1846. He is a son of Charles Humphry, an English founder of the family in the United States, who became a settler of Scott county, Arkansas, before Arkansas had attained statehood, and afterward served in its legislature. The boyhood and youth of Judge Humphry were spent on his father's farm until the outbreak of the Civil war, which divided the household in sentiment and in fact. The father was a Union man, and during the war went north and remained in Illinois until it ended. The three grown sons went into the Confederate army. Although too young to be identified with the military service, Thomas C. also cast his lot with his elder brothers, and was an interested witness of the campaigns conducted through and around his state, and was in the battle of Marks' Mill. At the conclusion of the war the family was reunited and the younger children continued their schooling.

After attending the high school at Hillsboro, Arkansas, the Judge chose medicine

as a profession, commencing his studies with Dr. Tolbert, of Galley Rock, Arkansas, and continuing them for a time in the Missouri Medical College at St. Louis. He then practiced a short period at Freedom, Illinois, when he returned to the institution mentioned and graduated with his professional degree in 1869. From the March of his graduation to the following autumn he practiced in Memphis, Tennessee, when he formed a partnership with Dr. Jamieson in the drug business at Quitman, Arkansas, and was thus engaged in connection with his medical practice until his removal to Judsonia, White county, where a few years later he abandoned both profession and business in favor of the law and a judicial and public career.

In 1876 Judge Humphry located at Paris, Arkansas, and commenced the study of the law. He was licensed to practice and admitted to the bar by Judge John H. Rogers, now United States district judge at Fort Smith, and in 1878 was chosen judge of Logan county, spending a portion of his official term as a student at the University of Louisville, from which he obtained the LL. B. degree in March, 1879. He practiced law at Paris until 1886, when he removed to Fort Smith, and for twelve years a progressive figure of the bench and bar at that point. In 1890 he was appointed circuit judge of the twelfth circuit of Arkansas, which includes Fort Smith, and filled out the unexpired term of Judge John S. Little, resigned.

In the meantime Judge Humphry had been making his mark as a Democrat and a man of civic affairs. As early as 1874 he was elected to the Arkansas legislature from White county, on the Independent ticket, and served in the sessions of 1874 and 1875, and obtained considerable prominence as the author of the bill taxing the railroad lands of the state. Then followed his study of the law, his admission to the bar and the establishment of a substantial reputation both as a member of the bar and the bench. In 1892 he was again elected to the legislature, being chosen speaker of the house in the following year, in which position his abilities as a parliamentarian were evidenced by the fact that no appeal was taken from his decisions during the entire session. In 1898 Judge Humphry moved his office from Fort Smith to Cameron, Indian territory, and in 1900 settled at South McAlester, and during the following four years was especially active at the bar of the federal courts. The high standing which he won as a lawyer brought him the appointment in that year of United States judge of the central district of the Indian territory. He then took up his residence at Atoka. A great many full-blood Indians resided in his district, and in his stanch protection of their rights, especially of the Indian minors, as against the attempted encroachment upon their allotments, the Judge won the name of the Square Deal Judge. When his office terminated with the coming of statehood he returned to private practice and soon became a resident of Hugo.

At the commencement of his political career Judge Humphry was an independent Democrat, and gave his general support to the Democracy until the period of the Spanish-American war, when he became an earnest advocate of the McKinley policy, bitterly opposing the so-called paramount issues led by Bryan and all others who hampered the efforts of the United States to uphold the national dignity and assume the logical outcome of the war implied by the term Expansion. He was also convinced that on the free coinage issue Bryan had been a false prophet, and that to reverse the financial policy of the country would create panics instead of prosperity. For these reasons, added to the fact that one of his sons had made an enviable record as a brave officer in the compaigns of the Philippines, Judge Humphry became an enthusiastic supporter of both McKinley and Roosevelt, and has been a supporter of the Republican party ever since. As to Oklahoma matters, he always favored joint statehood, and served as a delegate to Washington from Oklahoma City, appearing before the committee on territories of the house and senate as a special advocate for admission on the "single" plan. This was not his first appearance at the national capital as a special representative of his home constituents, as while still a resident of Ar-

kansas he went to Washington with Governor D. W. Jones to urge upon Congress the importance of a fitting appropriation in support of the Louisiana Purchase Exposition of 1903. The Judge has also been a Masonic leader for many years. He has taken the thirty-second degree; in 1886 was grand master of the Grand Lodge of Arkansas; has served as master of the South McAlester lodge, and was foreign correspondent for the Grand Lodge of Indian territory and wrote the reports for six years.

Rev. William Humphry, the paternal grandfather of the Judge, was a Baptist minister and formally constituted in 1808 the chapel at Isle Abbot, Somersetshire, England. He died in England in 1834, and his son, Charles Humphry, was born in Somersetshire, May 10, 1799. Three sons of the family came to the United States, John and Robert settling in New York City, and from these representatives are descended all the members of the family in this country who have adhered to the spelling of the name given in this article. Charles Humphry, the father, established himself in Scott county, Arkansas, during 1817, and in 1827, near Baton Rouge, Louisiana, married Elizabeth Garner, an orphan girl with distinguished family connections. The young English farmer soon proved his worth and his fellows honored him with their confidence in many tangible ways. He was serving as sheriff of his county when Arkansas became a state in 1836, and four years later was elected a member of its house of representatives. He died and was buried at Quitman, Arkansas, March 14, 1877. Charles and Elizabeth Humphry had the following children: Mrs. Mary J. Gray, who died of yellow fever in Memphis, Tennessee; Henrietta, wife of W. W. Garner, of Quitman, Arkansas, and mother of Garner Brothers, prominent merchants of Lamar, that state; Mrs. Joanna Lee, who died in Boonville, Arkansas, wife of Dr. W. R. Lee and mother of Mrs. Judge Evans, of that state; Henry C., who was an officer in the Confederate army and died as a farmer in Pike county, Arkansas; James G., of Washita, Arkansas; Charles, of McAlester, Oklahoma; Thomas C., of this notice; John W., of Mountain View, Arkansas, well known as a teacher, and once a member of the Arkansas legislature; and Mrs. Victoria Pearson, of Conway, Arkansas.

Judge Humphry was married September 27, 1871, to Miss Anna McLeod, daughter of the late A. A. McLeod, of Sumter district, South Carolina, and a cousin of Hon. E. D. Smith, United States senator from South Carolina, and the late A. Coke Smith, bishop of the Methodist Church South. She is also a cousin of Lieutenant Governor McLeod of South Carolina. The children of this union are: Charles A., a business man of Evansville, Indiana; Lamar G., of Fort Smith, Arkansas; Thomas C., Jr., a clerk in the land office at Muskogee, Oklahoma; Frank, a shoe salesman for the Grand Leader, St. Louis; and three daughters, Daisy, Dollie and Kate, who reside with their parents in Hugo.

CLYDE MCMURTREY. One of the large farmers and prominent ranchmen of Le Flore county, Clyde McMurtrey is also president of the Bank of Cameron and interested in other large enterprises of the locality. The financial institution of which he is the head was organized in July, 1908, with a capital of ten thousand dollars. Its vice president is W. A. Bolin and its cashier R. W. Cotton. The institution owns the building which it occupies, and, although young, has attained a substantial standing.

Mr. McMurtrey is himself a native of Le Flore county, born October 18, 1872, and his education and business training have been obtained within the limits of Oklahoma. His father was Thomas H. McMurtrey, a white man, and his mother was formerly Martha Brashears, a Choctaw born in Alabama in 1837, and who is now a resident of Cameron. The father was born in Sebastian county, Arkansas, in 1838, whither the paternal grandfather, William H. McMurtrey, had located a few years before, and in which locality he reared his family. William H. McMurtrey was a well-known Kentuckian and founded the homestead near the present site of Hackett City and became the father of Thomas H.,

the father of Clyde, and a daughter, who afterward became Mrs. Faulkner, one of the early settlers of Fort Smith, Arkansas. His wife by a previous marriage to a Mr. Tichner was the mother of a son, William Tichner, who passed his active life in California, where he also married and reared a family.

Thomas H. McMurtrey was reared near Hackett City, receiving a limited education, but he possessed a strong practical ability which made him in after years a practical man of affairs. His mercantile operations covered Hackett City, Culleychaha, Le Flore and Talihina, and he also became an extensive ranchman with headquarters at Hartshorne. Prior to the Civil war he became firmly established as a leading merchant and financier of the Choctaw country, and during the war of the rebellion supported the Union cause as a member of the Second Kansas Battery. At the conclusion of the war he returned with energy and successful results to his old-time avocation of stock-raising and mercantile pursuits, and he died in February, 1896, as a citizen of large property and substantial influence. The deceased was the father of James J. and John W., of Hartshorne, Oklahoma; Susan R., wife of D. Thomas, of Talihina, that state; Clyde, of this biography; Nettie, the wife of Enoch Needham, postmaster of Hugo, Oklahoma; and Joseph B., also of Hartshorne.

Clyde McMurtrey lived within the boundaries of Arkansas until he was thirteen years of age, when he moved with other members of the family into the Choctaw country, where he has since resided, either at Pottsburg or in Le Flore county. He obtained his schooling at and near Hackett City, and spent the years of his youth and early manhood as his father's assistant on his ranch and in his store. In 1896 he moved to the valley of Cameron, where as the son of a Choctaw mother he took advantage of his legal allotment. The consequence is that he is now the owner of a valuable one thousand acre ranch and farm near Hartshorne and has cultivated seven hundred acres to the standard crops of the country. He was one of the founders of the Bank of Cameron, of which he was elected president, and when it was merged with the Farmers' and Merchants' Bank was placed at the head of the consolidated institutions, known as the Bank of Cameron. Like his father and other male members of the family, he is an active Republican, but although he faithfully supports his party he has never asked favors at its hands.

In February, 1897, Mr. McMurtrey was married to Miss Della Adams, daughter of Thomas H. Adams, who migrated first from Tennessee to Kentucky and thence to Oklahoma. They have one child, Tom McMurtrey.

DR. WILLIAM BELTON MILLER. The late Dr. William Belton Miller, whose professional life was intimately associated with the village of Talihina for more than a score of years from its inception, and until death removed him on the 8th of May, 1908, was a character whose acts and deeds will be revered by both his contemporaries and descendants.

Dr. Miller was born near Birmingham, Alabama, April 7, 1859. His father, J. Miller, married a Miss Calhoun, and his parents were of the farming community and died when their son was yet a child. Being a child of rural folks and passing his youth amid industrious surroundings, the future doctor acquired the cardinal traits of his worthy ancestors, industry, honesty and sobriety, which, together with a liberal education, were the elements which made up his capital stock when his duties as a citizen actually began. In his youth and early manhood he taught school in the country districts of Alabama, but in the early eighties came to the southwest and passed a few years in southern Texas, returning to the east to assume his professional studies.

The doctor's work as a student was completed in the medical department of the University of Louisville, from which he obtained a diploma in 1886, and the following year he returned to the west and sought a location in the Choctaw nation. In 1890 the Doctor took a post-graduate course in the New York Polyclinic, of New York city. At this time the Frisco railroad was

being pushed through the Indian country into Texas, and the young physician saw the advantage of establishing himself in one of the several new towns which were destined to spring up along the line. He selected Talihina, was one of its pioneers, and was ever afterward identified with its development. He erected one of the first buildings, in which he placed a stock of drugs, which business with the active practice of his profession fully occupied his time and absorbed his fine abilities. Death too soon placed a period to the Doctor's career to permit him to have had a long career in politics or public life, but in the municipal affairs of his town and in various other matters of importance which came before the Choctaw nation for solution he was active and influential. Into the movement for statehood he entered heartily, and when the framers of the constitution gathered to perform their momentous work he was summoned to Guthrie and performed an important part in the creation of the organic law of the commonwealth. He was a Democrat, assisted in organizing his party in Le Flore county, and was naturally pleased with the good showing of its candidates at the first state election.

In his professional life Dr. Miller was deservedly successful and popular. Being the pioneer physician, he was lovingly referred to as the "old Doctor," and when death removed him every family in the vicinity seemed to have lost a personal friend. He was associated in membership with the medical societies of the county and state, and as local surgeon of the Frisco Railroad held membership in the Association of Railway Surgeons. He was possessed of some of the valuable property of Talihina; was a Master Mason, a United Workman and a Woodman, and was a splendid type of the broad-minded physician who never failed to remember the responsibility of citizenship.

On September 24, 1889, Dr. Miller married Miss May Emmert, a daughter of James E. and Frances (Pace) Emmert, who were settlers in Oklahoma from Sebastian county, Arkansas, where Mrs. Miller was born May 7, 1873. Her mother is a sister of Mark H. Pace, one of the well-known early settlers of the Cameron community and a retired business man of Poteau. The Doctor and Mrs. Miller were not blessed with children. Their lives were devoted to each other, socially to their friends and relatives, and religiously to the work of the Presbyterian church, of which they were both members. The death of Dr. Miller struck home with a keen thrust, his relations as a husband being peculiarly considerate and tender.

JOHN J. THOMAS, one of the leading merchants and substantial citizens of Talihina, Le Flore county, has been identified with the place since it became a station on the Frisco line. He has become a strong factor not only in its business progress but in the social, political and religious movements of the community. A native of Henderson county, Tennessee, Mr. Thomas was born February 21, 1860, the family home being known as Shady Hill, which was also the birthplace of his father, John Thomas. The founder of the family in Tennessee was also John Thomas, a native of North Carolina, who migrated to Henderson county at a very early day and there carried on a farm as well as a small general store at Shady Hill. His wife, the maternal grandmother of Mr. Thomas, and who was formerly a Miss Lacy, died at the remarkable age of one hundred and three years, on the old homestead, in 1900, her husband having preceded her in 1868. The family of these grandparents consisted of three sons and four daughters. One of the sons became a Presbyterian minister, and all passed useful lives in the county of which they were early settlers. Still earlier in the genealogy of the family its American ancestor crossed the Atlantic from Wales and established himself in the state of North Carolina, and from him sprang the John Thomas heretofore noted.

The father, John Thomas, who was born at Shady Hill, October 26, 1826, married Miss Eliza Woods, daughter of John W. Woods, also a pioneer of the Shady Hill locality. Mrs. Thomas died in 1907, at the age of seventy-two, while her husband is a resident of Talihina, Oklahoma. The

children of their union are: Mrs. Rebecca J. Browder, of Talihina; John J., of this sketch; M. D. L., a leading merchant of Talihina; Mollie, now Mrs. J. J. McMurtrey, of Hartshorne, Oklahoma; and Josie, who married Winfield Harper, of Ft. Smith, Arkansas.

John J. Thomas, of this sketch, received his early education in the common schools of Henderson county, and at Ozier Academy, also in the neighborhood of Shady Hill. At nineteen years of age he commenced work as a "devil" in a newspaper office, which experience was valuable from an educational standpoint. He afterward removed to Kenton and entered the drug store of Dr. Bevill both as a means of livelihood and with the intention of studying medicine. But after filling this position for a year his parents decided to remove to the southwest, which fact determined the son's future employments. The first family home of the Thomases was at Boonville, Arkansas, where the father opened a store in which John J. was employed for two years. The young man then located at Fort Smith, where he connected himself with a local merchant, but as the father had in the meantime established a promising business at Hackett City the son there rejoined him. Mr. Thomas remained at that point until 1888, the last year of his stay in Hackett City being spent as a clerk in a drug store. In the year mentioned he located in the new station of Talihina, in the Choctaw Nation, where with another brother he established the well known general mercantile firm of Thomas Brothers. This existed for fifteen years, and its store was long the center of perhaps the most active trade in the town. After the dissolution of the firm John J. Thomas established himself both in the drug and hardware business, and still later joined his son in a dry goods enterprise which was established under the firm name of A. W. Thomas and Company. This latter business, which was founded in 1907, was accommodated in that year by the erection of a substantial two-story double brick building. This is the personal property of John J. Thomas, who also owns a commodious residence at Talihina as well as other improved and valuable property. Mr. Thomas is also well known as an active Democrat. He took a leading part in the statehood movement, and in the constitutional convention was appointed temporary county commissioner and chairman of that board, and at the first general election in 1907 was elected county commissioner of the Third district, being now chairman of the same.

Married December 4, 1881, in the state of Tennessee, to Miss Nellie Needham, he is the father of the following children: Atha W., who married Miss Mary Boyd, of Paris, Texas, and is the father of Nellie Boyd and his father's partner in business; Auda M., Jessie J. and Ferris L. Thomas. The parents are both active workers in the Methodist church and Sunday-school, Mrs. Thomas being also president of the Ladies' Home Mission Society of the village. Fraternally Mr. Thomas is a member of the Masonic fraternity, Knight Templar degree, and of the Independent Order of Odd Fellows.

BENJAMIN H. HARPER. In point of settlement Benjamin H. Harper is one of the white pioneers of what is now Le Flore county, and as a resident of Poteau is one of its most substantial business men, land owners and influential citizens. His connection with the west began in his early youth, when the family, headed by his mother, came from Arkansas and took up her abode on the edge of the Choctaw country bordering on Sebastian county, that state. Hackett City, Arkansas, was the chief mecca or mart of trade for the neighborhood where they lived, and it was in that locality that the boy acquired his meager knowledge of books in a country school, and it was from that community as a young man that he migrated to the country around Kullychaha and established his first permanent home.

Mr. Harper is a man of the west, his birth occurring in Columbia county, Arkansas, June 5, 1857. His father was William B. Harper, one of the ante-bellum settlers of that state and a farmer by vocation, who lost his life in the Civil war while in the service of the Confederacy. The

elder Mr. Harper was a native of Tennessee, and on the banks of the Cumberland river he married Catherine Vicks, who died near Greenwood, Arkansas, December 23, 1873. The children of their union were as follows: Elizabeth Smith, who died in Le Flore county, Oklahoma; John, of Hackett City, Arkansas; Eliza, who married Samuel Appleton, of Locksburg, Arkansas; Mary, now Mrs. William Morris, of Kullychaha, Oklahoma; William, of Dill, that state; Benjamin, of this review; Susan, wife of John King, of Kullychaha, Oklahoma; Thomas and Winfield, twins, of Mulberry and Fort Smith, Arkansas, respectively; and Samuel, also of the latter place.

Benjamin H. Harper secured very poor advantages in school and reached mature years with little knowledge of books. The family circumstances were such as to induce constant industry, and when he was left parentless by the death of his mother in 1873 he was forced to the responsibility of his own support. From 1873 to 1875 he was a wage worker on a farm, and from the latter year until 1882 he pursued agriculture independently. He was then married and continued the same calling as a renter or lessee for a few years, when he purchased a farm near Slaytonville, which he partially improved, and some years later bought another tract nearer Poteau. Subsequently he settled in the town of Poteau, where he has built a commodious and comfortable home. He is now also the owner of several tracts of land near the county seat, and a fruit farm of about twelve acres has been developed on one of his properties in the vicinity.

All his efforts have brought to Mr. Harper abundant success, and his farms contribute materially to the annual earnings of his other interests. He is a dealer in cattle and horses, both a feeder and shipper of the former, and his success in the live stock line marks him as one of the reliable business men of Poteau. In addition he has profitable banking investments, being a stockholder in both of the financial institutions of Poteau. While not an original citizen of Poteau, or a pioneer in its settlement, Mr. Harper has lent himself to some of the enterprises which contribute modestly toward its importance as a factory city. He promoted the first cotton gin, and the first planing mill in the place was the result of his capital and enterprise. He has no ambition outside of the channels of business except in the care and education of his children, in which duty and pleasure he has the intelligent and living co-operation of his wife. He is a stanch Democrat, both from firm conviction and family tradition.

On December 27, 1882, Mr. Harper married Miss Emily Enochs, a daughter of John Enochs, who came to Oklahoma from Mississippi in 1878. In the latter state he was a merchant, near Tupelo, where he married a Miss Logan. In Oklahoma he followed the vocation common to most new settlers, that of agriculture. The children born to Mr. and Mrs. Enochs are as follows: Ernest, of DeQueen, Arkansas; Jessie, wife of Henry Harrell, of Calvin, Oklahoma; and Mrs. Benjamin H. Harper. Mr. and Mrs. Harper's family comprises Grace, Cecil, Cleo, Percy and Jessie Harper. Mr. and Mrs. Harper are members of the Presbyterian church.

DR. JOHN B. WEAR is a well known physician of Poteau and health superintendent of Le Flore county. He has been practicing at this point since 1897, coming directly from Auburn, Sebastian county, Arkansas, where he was engaged in professional work for seven years. Dr. Wear is a native of Alabama, born in St. Clair county, in the month of September, 1855. Roton G. Wear, his father, was a native of east Tennessee, born in 1832, and was one of several brothers who passed their lives in Tennessee and Arkansas. Of these, Levater and Robert Wear died in Logan county, Arkansas; John M., in Polk county; and Rev. Jefferson Wear was long engaged in the ministry in eastern Tennessee. Shortly before the outbreak of the Civil war the father migrated to Texas. He was a shoemaker by trade and enlisting in the Confederate army was detailed to the shoe manufacturing departments at Arkadelphia, Washington and Gilmer. A few years afterward he removed his family

to Arkansas, dying near Mena in 1887. His last years were passed as a farmer in connection with the operation of a gin and mill. The elder Mr. Wear married Sarah E. Stevenson, who died in Polk county, in 1902, the mother of the following: Dr. John B., of this sketch; Thomas J., of Sallisaw, Oklahoma; A. E., of Polk county, Arkansas; Francis A., who resides in Sallisaw, Oklahoma; Robert L., principal of the Red Oak (Oklahoma) schools; Mary T., who became the wife of S. C. Thorton, of Sallisaw; and Mrs. S. E. Cotton, also of that city.

Dr. Wear received his early mental training in the public schools and afterward taught for ten years in the country districts, and while thus engaged he studied medical subjects so thoroughly that he was granted a permit to practice before he completed a regular course. He finally entered the medical department of the Arkansas University at Little Rock and received his professional diploma and degree in 1888. He then located at Dallas, Arkansas, where he spent one year, and was then at Auburn, Sebastian county, where he continued in active practice until his removal to Poteau in 1897. Within the intervening decade he has established a substantial practice at this point and continues to be an active member of the County, State and American Medical Associations. In 1903 he took a post graduate course at the New Orleans Polyclinic, now a branch of the Tulane University. Besides his large practice Dr. Wear is also part owner of a large drug house, the business of which is conducted under the name of the Noble-Bird Drug Company. In politics a stanch Democrat, he is now serving the public as superintendent of health of Le Flore county by appointment from the Oklahoma commissioner of health. He is a Master Mason; an active member of the Church of Christ; a large property owner and in every way a substantial and influential citizen. On December 27, 1902, Dr. Wear was married in Sebastian county, Arkansas, to Miss Grace Gee.

Mark H. Pace, of Poteau, is a retired business man of Le Flore county and one of the few living settlers of the early seventies. It was in 1874 that he located near where Cameron now stands, but there was no town there at that time, and he made his first home upon the farm which is now the property of Ben McBride. He brought his little family there in a wagon, being induced by the old Choctaw, T. D. Sexton, to locate upon a portion of the latter's land, and the erection of a log house thereon constituted his first Oklahoma home. During the fifteen years that Mr. Pace was identified with that community he was a grower of grain, cotton and stock, and his success provided him with a surplus capital with which to engage in other enterprises when the opportunity offered. In 1890 he left the farm and engaged in mercantile pursuits at Hackett, Arkansas, the firm of Johnson and Pace doing business there for the succeeding twelve years. He entered into the political as well as the business life of the town, and served as one of its aldermen for two terms. Having sold out his business, he left Arkansas in 1902 and returned to the Choctaw country, locating at Hartshorne, Oklahoma. For nearly four years Mr. Pace was actively engaged in the hardware business at that point, and while there he joined Mr. H. S. Ferbrache in the organization of the Stigler Hardware Company at Stigler, Oklahoma in 1903, of which company he is president and a large stockholder. He disposed of his Hartshorne interests in 1906 and established his home in Poteau, Oklahoma, where he has erected a modest but comfortable cottage. He has many other pieces of valuable property in the county seat of Le Flore, among others some of the early store buildings and a few of the modern brick houses of the city. To these and other private interests he is giving his time and business abilities.

Mark H. Pace was born in Lincoln county, Missouri, October 30, 1852, and three years later his father, John C. Pace, took the family to Lavaca county, Texas. In 1857 they returned to Missouri, and thence back to McLennan county, Texas, in 1859. The father lived near Waco until 1868, farming and raising stock, when he retraced his steps north to Arkansas and lo-

cated in Sebastian county. He remained there until his son Mark had established himself in the Choctaw Nation, when he joined the latter and passed his last years in that locality, dying in 1898 at the age of eighty-two years. The father was born in South Carolina in 1806, leaving his native state in 1827, becoming one of the pioneers of the territory of Iowa and spending two years in the lead mines at Dubuque. The family home was established in Lincoln county, Missouri, about this time, and John C. Pace was first married there, in 1837, to a Miss McCulla, who died there. In 1846 he married Miss Julia Cobb, a native of North Carolina, who died in Texas in 1867, at forty years of age. The children of this union were Marcellus, who died unmarried; Mary F., who married J. E. Emmert and lives at Talihina, Oklahoma; Mark H., of this notice; Sarah C., who married C. W. Daniel and died in 1882, near Cameron, Oklahoma; Rufus S., of Wilburton, Oklahoma, and Lucinda, who married William L. Murray and died near Poteau in 1884.

The school advantages of Mark H. Pace were purely elementary. He was reared to farm work and country life and when he came to Oklahoma owned a span of ponies, a cow and a calf, and a brood sow and pigs. In October, 1871, he was first married in Sebastian county, Arkansas, to Miss Elizabeth C. Adams, who passed away in 1877, while residing on the farm near where now stands Cameron, the mother of the following: Frances Ada, who married A. M. Hulsey and died at Cameron; Anna L., wife of James F. Miller, of Poteau, Oklahoma; and Emma, now Mrs. Charles L. Miller, of Poteau. In February, 1882, Mr. Pace married Mrs. Sarah E. Combs, a daughter of Hiram Blair, of Sebastian county, Arkansas, this union having been without issue. For more than thirty years Mr. Pace has been a member of the Missionary Baptist church, and all his life a voting Democrat. He is a Scottish Rite Mason, having been made a Mason in 1882 in Mashulatubbee Lodge No. 13, Indian Territory, and is also identified with the Odd Fellows lodge.

Dr. George A. Morrison, who, with his son, Dr. Robert L. Morrison, is engaged in the practice of his profession at Poteau, Le Flore county, has attained prominence in medicine and surgery in both Kansas and Oklahoma. He is a son of the Buckeye state, born in Guernsey county, May 12, 1853, and his paternal ancestors (of Scotch-Irish stock) were identified with the pioneer history of Ohio. His grandfather, George W. Morrison, was a farmer of Noble county, where the Doctor's father, Rev. K. P. Morrison, was born in 1805. The former served in the war of 1812, and engaged for many years in agricultural pursuits in Ohio, but toward the close of his life he became a part of the family migration westward, settled near Olney, Illinois, and died in that locality in 1870. The father, while a regularly ordained minister of the Methodist church, was a business man during the main period of his active career, supplying the pulpit only upon special occasions. He was also an earnest patriot, a Union soldier, a stanch Republican and a man of public affairs—a broad, able, useful and Christian character. Until he was nearly fifty years of age he lived in his native Ohio, but in 1854 joined the western emigration to the almost virgin prairies west of the Mississippi. Iowa had then but recently assumed the crown of statehood and the sturdy middle-aged Ohioan became one of its pioneer citizens by settling in Appanoose county, with whose business and public affairs he was identified for many years. At Unionville, he became a member of the firm of Barnes, Phillips and Company, and was also a leading merchant at Seymour, but the burning of his store and stock at the latter place caused him to abandon merchandise and enter the real estate business. Although the opening of the Civil war found him at a period in life when less faithful and energetic men are tempted to retire from the strenuous activities, Mr. Morrison unhesitatingly enlisted in the Union cause, joining the ranks of Company C, Thirty-sixth Iowa Infantry, in 1862, and serving with that command until the close of the struggle. For meritorious service, he was eventually

commissioned as a captain and was honorably discharged with that rank. After the war he resumed business in Unionville, and subsequently served for four years as district clerk of Appanoose county, his death occurring at Seymour in 1889. His wife, who now resides in Fayetteville, Arkansas, was formerly Miss Rebecca Law, and is the mother of four children, as follows: Dr. George A., of this sketch; T. L., a resident of Des Moines, Iowa; and Emma and Mrs. Minnie Butler, also of Fayetteville, Arkansas.

Dr. Morrison obtained his early education in the public schools of Iowa, and finished his professional courses in the medical department of Drake University, graduating from the latter March 5, 1885. After practicing for two years in Iowa, he located at Columbus, Kansas, where he actively participated in the professional affairs of Cherokee county. There he obtained such a state-wide reputation that in 1895 Governor Morrill appointed him chief of the medical and surgical staff of the Kansas Penitentiary at Lansing, Kansas. The two and a half years of his administration in that office were signalized by the thorough systematization of the hospital work, isolation of consumptives, the scientific classification of the cases to be treated and the most approved regulation of the diet and personal hygiene of the prisoners. At the conclusion of his noteworthy work at Lansing Dr. Morrison returned to Columbus, there remaining in private practice until 1889, when he removed to the Choctaw Nation and opened an office at Poteau. His son had joined him as a professional partner at Poteau and has continued in this relation since he became a resident there. In both states of his residence the elder physician has been an active and leading member of the medical societies, and was for years one of the prominent figures of his profession in southeastern Kansas. In 1902-4 he served as professor of physiology in the College of Physicians and Surgeons of Kansas City, and was also president of the Southeast Kansas Medical Society. In 1905 he was appointed surgeon of the Kansas City, Mexico and Orient Railway at Topolabambampo, Mexico, where with his family he resided a year, and he is now local surgeon of the Kansas City Southern Railway Company at Poteau. Father and son are both active Republicans and have been called by their party to serve in not a few responsible public positions. Dr. Robert L. Morrison has served as mayor of the city and as recorder of the town, being now a member of the common council, while Dr. George A. Morrison has been a member of the educational board. The latter is also president of the Commercial Club of Poteau and fraternally is a member of the local Masonic lodge and past chancellor of the Poteau Lodge of the Knights of Pythias.

On the 26th of August, 1877, Dr. George A. Morrison married, at Unionville, Iowa, Miss Retta Farley, daughter of David R. Farley, originally a Tennessee farmer, who became an emigrant to Missouri. He settled in Harrison county but later moved to Unionville, Iowa, where his daughter Retta matured into womanhood and enjoyed the childhood and youthful friendship of George A. Morrison before their mutual and tried attraction developed into mature love. Theirs is no exception to the rule that such marriages are ideal in harmony and the substantial affection which is proof against the vexations and great trials of life. Their children are the son already mentioned as his father's associate—Dr. Robert L. Morrison, a graduate of the College of Physicians and Surgeons, of Kansas City; Chester F., who is a lumberman of Garden City, Louisiana; Arthur B., a student in the University of Arkansas; Ruth, assistant postmaster of Poteau; and Jo and Helen Morrison, living at home.

FRANK P. ALLEN, who is junior member of Mayer and Allen, leading general merchants of Bokoshe, has been a resident of Oklahoma since 1903. He is a native of Mississippi, the ancestral home of the family being founded near Corinth, by William Allen, an emigrant from Tennessee who owned slaves and was a successful planter of the old regime. He reared a family in that locality, where he died. One of his sons, William, was killed during the Mexican war at the battle of Monterey, having

held the state senatorship of Mississippi at the age of twenty-three years. Another son, Eugene, moved to Texas early in the settlement of that state and brought up his family there.

Richard B. Allen, father of Frank P., was born in Mississippi, and was educated for a civil engineer, but eventually became a contractor at Van Buren and Fort Smith, Arkansas. He served in the Confederate army from Mississippi. Although his course in a Virginia engineering school prepared him for work in that field, his scientific training was turned to good use in the field of architecture and contracting. The elder Mr. Allen left Mississippi in 1879, established himself at Van Buren, Arkansas, and there died in 1908. He was married. to Miss Adella Rose, of Pulaski, Tennessee, who became the mother of a large family and still resides at Van Buren, Arkansas. The children of Mr. and Mrs. Richard B. Allen were: William B., a druggist of Little Rock, Arkansas; Robert P., one of the state railroad commissioners of Arkansas; Richard F., a merchant of Vian, Oklahoma; Frank P., of this review; Dan M., connected with the McElroy bank at Fayetteville, Arkansas; Earl T., who is in the book and stationery business at Van Buren, Arkansas; Mrs. T. C. Potts, of Sheffield, Alabama; and Mrs. Herbert DeLong, of Van Buren.

Frank P. Allen, of this sketch, was chiefly educated in the public schools of Van Buren, Arkansas, and at twenty years of age became a merchant's clerk in a grocery store there. He subsequently found employment in a shoe store at that place and afterward served as a commercial traveler for the Goodbar Shoe Company, of St. Louis, Missouri. Leaving the road, he became associated with Max J. Mayer in the Boston Store at Van Buren, in which business he maintained an interest for some years. His first connection with the mercantile development of Oklahoma began at Vian in 1902 when he took an interest with Allen Brothers of that place. This he subsequently sold, in the concentration of all his interests at Bokoshe, where his firm now leads in the field of general merchandise.

Mr. Allen was married at Batesville, Arkansas, on January 11, 1905, to Miss Cecil Glenn, adopted daughter of John W. Glenn. Mrs. Allen died January 13, 1907, the mother of two children—Frank Maxwell and Cecil Wilson Allen. Mr. Allen is a Master Mason and an Odd Fellow; a Democrat in politics; and his church connections are with the Presbyterian church.

MATHEWS NELSON, postmaster of Bokoshe, has been identified with Le Flore county since 1903. He has been active in the western country since his youth, and the states of Louisiana, Texas and Oklahoma have been the scenes of his business activities for more than a dozen years. His relation to his present town is that of a developer of its business affairs, and his present standing marks the climax of his achievements as a citizen and as a leading factor in the commerce and public affairs of the community. Born in Rutherford county, Tennessee, March 19, 1878, Mr. Nelson is a son of Lycurgus Nelson, a farmer and stockman who married Eva B. Weekley, a native of Tennessee but of Virginia parentage. Both parents are deceased. The issue of their marriage were Weekley, a resident of Kentucky; Lycurgus, of Taylor, Texas; Robert M., of New York City; Eva May, wife of W. B. Smith, general superintendent of Whithed and Wheeler's Lumber Company, of Alden Bridge, Louisiana; Mathews, of this notice; Warford, of Potosi, Mexico; Brownie, now Mrs. Max J. Bell, of Trinidad, Colorado; and W. L., who is living at Bokoshe, Oklahoma.

Postmaster Nelson was educated in the public school, but his character was formed more by his business experiences than by the schoolmen. At a very early age he left school to assume a position with C. H. Harwell, a leading business man of Quannah, Texas, and remained with him for seven years, then entering the service of the R. L. Trigg Lumber Company, at Noble, Louisiana. After four years he resigned his position as manager of their commissary department, located at Bokoshe and became identified with the lumber business there. He became one of the promoters of the Citizens Bank of that place,

and is now manager of the Peoples Lumber Company and controls considerable farming interests in Le Flore county.

Mr. Nelson has been as conspicuous in politics as he has in business. He served as chairman of the Republican Club of his township during the recent presidential campaign, has frequently been a delegate to political conventions, and in 1908 was one of the secretaries of the state convention of his party at Oklahoma City, being also sent as a delegate to the statehood convention at Tulsa which paved the way for the admission of Oklahoma as a state. Mr. Nelson was honored with appointment to the postmastership at Bokoshe in November, 1907. On April 28, 1901, he was married at Charleston, Mississippi, to Elizabeth F. Neely, a daughter of John T. Neely, chancery clerk and for many years a merchant of Tallahatchie county, that state. Mr. Neely was a Confederate soldier and is a representative of one of the ancient families of the south.

William H. Harrison, postmaster of Poteau, Le Flore county, was born in what is now Haskell county, Oklahoma, on the site of the present hamlet of Tamaha, March 5, 1880. His parents established themselves there in the early seventies and in the public affairs of the Choctaw Nation the father, Mitchell Harrison, became widely known. The Harrison family is a numerous one among the Choctaw people and many of its representatives have filled positions of honor and trust under the Indian regime. Mitchell Harrison was born in old Towson county, in the vicinity of Fort Towson, in 1850. He was a son of William Harrison by a full blood Choctaw woman, a member of the band which settled there from Mississippi, according to the stipulations of the treaty with the United States made a few years before. Mitchell Harrison seemed to possess both the bent and qualifications for politics, and his activity in the field won him such a wide and favorable acquaintance among the national leaders that he was made county judge, district trustee and judge of the circuit court. He died on the 4th of November, 1898, and his wife, who was Miss Louise Garland, of Choctaw blood, is living at Tamaha. Their children were Virginia, wife of J. E. McBrayer, of Stigler, Oklahoma, who died at Tamaha; Henry C., who passed away and left a daughter near that place; William H., of this notice; Mary, wife of J. R. Porch; Albert P. and Lewie, all of the old home community. By a previous marriage Mitchell Harrison left Benjamin F., and by his second marriage he left Mitchell and Milo E. Harrison.

William H. Harrison passed two and a half years in Spencer Academy while preparing for a higher education, and graduated from Henry Kendall College in 1899. He then entered Central University at Danville, Kentucky, from whose law department he graduated in 1902. Ready for the profession of his life, he assumed law practice and also entered Indian politics, being elected district attorney of the Mashulatubbee district and filling the office for four years. Retiring, he resumed the work of his profession as a private citizen, and maintained a friendly attitude toward the united statehood movement. Mr. Harrison has served as a delegate to all state conventions of the Republican party in Oklahoma. His prominent position in party matters added to his admitted qualifications led to his appointment as postmaster of Poteau in December, 1906, and he took charge of the office January 8th of the next year, as the successor of L. L. Smith.

On January 2, 1908, Postmaster Harrison was married to Miss Minnette Roberts, daughter of C. S. Roberts, and they became the parents of a son, William Henry, Jr., who was born December 18, 1908, and died January 12, 1909. Mr. Harrison is a Mason and a citizen of wide acquaintance, unsullied reputation and high character. He is a property owner in Poteau and has landed interests in Le Flore county, his substantial condition in life corresponding to his stalwart character for ability and morality.

Dr. Lawson D. Jones established himself in the practice of medicine in Talihina in 1901, when he came here as an undergraduate from one of the standard medical schools of the east. His life to manhood was passed in the Mississippi valley and on

the waters of the great river and on its navigable tributaries his father plied his vocation as a navigator prior to and during the period of the Civil war. The family is one of the pioneers in Hardin county, Tennessee, where it was founded by Jerre Jones, the grandfather of Lawson D., during the first quarter of the nineteenth century. That pioneer migrated from Georgia and created a farm from the forest around Coffee Landing, Tennessee, laying the foundation for the social and material progress of his successors. Jerre Jones reared three sons: Daniel; George, of Wolf City, Texas; and Jesse, who died as a resident of the Indian Territory. These children were all born near the scenes of their father's pioneer efforts and aided in the clearing up of the old Jones home there. Daniel was born in 1827 and remained on the farm until a young man, when he sought employment as a boatman. He finally rose to the position of a pilot, and his intimate knowledge of the navigable streams of the Mississippi valley led the Federal government to install him as a gunboat pilot during the Civil war. Altogether he passed sixteen years in this avocation, and then returned to the scenes of his childhood and followed farming until his death in 1895. He manifested little interest in politics but voted with the Democracy, according to the time honored custom of his family. Daniel Jones married Paralee Hayes, a daughter of Wallace Hayes, a slave-holding farmer and a representative of one of the old families of Hardin county. Mrs. Jones died in 1889, the mother of Coma, wife of James Hughes, of Coffee Landing, Tennessee; Minnie, deceased, Mrs. Thomas Meek, of Hardin county; Tony, of Wapanucka, Oklahoma; Robert, of Adamsville, Tennessee; and Dr. Lawson, of this review.

The common schools of his native county furnished Dr. Jones with his literary education, and when he reached a more mature age he became a country school teacher himself. This work was only temporary, being assumed as a means of aiding him to the mastery of his permanent profession. He first read in the office of Dr. J. D. Harbert, at Jackson, and then began his regular course in the Memphis Hospital Medical College. While pursuing his studies he spent some time in active practice at Talihina, returning to school as conditions would warrant, and graduating in 1902. Upon the death of Dr. Miller, he was appointed local surgeon of the Frisco road, and is a member of the medical societies of the county and state. He has shown a deep interest in public education and is active in the school work of the town as chairman of the board of education. Dr. Jones was married in Wright, Tennessee, March 7, 1897, to Miss Chester McBride, daughter of H. J. McBride, who is the father of five children. The Doctor and Mrs. Jones have two children—Ruth and Ola Jones.

Dr. Monroe Plumlee, who has been engaged in a growing medical practice at Poteau for a period of thirteen years, comes of an old substantial southern family, his great-grandfather, John Plumlee, residing in Virginia during the progress of the Revolutionary war. The family appears to have been well established in the old Dominion at the time of the adoption of the national constitution and it is therefore classed as one of the original families of the nation. This forefather afterward migrated to Clay county, Tennessee, where his son, Denton Plumlee, was born, dying in that section of the state in 1878, at the age of eighty years. This representative of the family was the grandfather of Dr. Monroe Plumlee and passed his entire life as a farmer of middle Tennessee. He married Miss Nancy Johnson, a daughter of Ben Johnson, and to them were born William, the father of Dr. Plumlee, Samuel, George, Mrs. Polly A. Hughes, Mrs. Betty Fraley, Frank, Andrew and Mrs. Sarilda Pennington. Both parents died in Clay county. William Plumlee, the father, was born in this county in 1823 and engaged in farming continuously until he had reached middle life, when he enlisted in the Confederate army as a member of Captain Hamilton's company of cavalry. He continued with this command until his capture in 1864, when he was sent to Camp Chase, Columbus, Ohio, and remained in that military prison until the conclusion of the war.

His wife was Lavona Kendall, daughter of William Kendall, who was a member of a substantial Tennessee family and became the mother of the following: John B., of Lincoln, Arkansas; Carroll, of Searcy county, that state; Dee, who resides in Marion county; Randolph, who lives at Port Arthur, Texas; and Monroe Plumlee, of this review.

Dr. Plumlee was born on the old family farm in Clay county, Tennessee, on the 7th of October, 1858, and continued to engage in agriculture himself until he reached the age of twenty-five, his education at that time being only such as could be obtained by the son of a humble farmer. His ambition led him to adopt a professional career, and as medicine appealed to him as a calling calculated to give free scope both to one's mental and sympathetic qualities he entered earnestly into the preparation of his life calling. Up to the time of making this decision, as a member of the family he had made many changes of residence. In 1869, when he was eleven years of age, he accompanied his parents from the old Tennessee home to Newton county, Arkansas, and subsequently resided in other counties of the state where his father continued to engage in farming. The Doctor was residing in Bellefont, Arkansas, when he abandoned farming and began reading medicine in the office of Dr. L. F. A. Hamilton, of that place. His regular profession course was pursued at the Missouri Medical College, Washington Medical College and the Hospital Medical College of Memphis, Tennessee. While a student at these colleges he practiced his profession at Bellefont and St. Joe, and after being thus engaged for a short time removed to Poteau, in the Choctaw Nation. There, as stated, he has practiced for the past thirteen years, having been most of the time connected with the American Medical Association and the County and State Medical Societies. In addition to having a substantial and growing practice he also has an interest in the Miller Drug Company. He has also been actively identified with the material progress of Poteau, having served as a member of its common council while the water works and the electric light plant were established. He was also a member of this body while the public school house was in the process of erection and in other ways assisted in the founding of its public institutions. In politics he is a Democrat and in his religion is identified with the Christian church.

In October, 1883, Dr. Plumlee was married in Newton county, Arkansas, to Miss Annie Burk, daughter of William and Kizzie (Bush) Burk. His wife was a native of Washington, Arkansas, born September 30, 1861. Their children are: John L., Haskell, Earl, Effie, Vera, Vallie, Zado, Monroe and Fred Plumlee.

James W. Boozman, of Cameron, is one of the leading merchants of the city and of Le Flore county. He is also a stockholder in the Bank of Cameron, owns considerable real estate in Cameron, and all of his circumstances and surrounuings indicate his substantial position in the community. A native of Meridian, Neshoba county, Mississippi, born December 14, 1864, James W. Boozman represents an old family which was founded in that locality by his grandfather, Monroe Boozman. His father, James M., is a native of the same county, and his career as a farmer and plantation owner was interrupted by his service in the Confederate army under the famous General Longstreet. He faithfully and pluckily followed the varying fortunes of his leader throughout the war, and stood in the tattered ranks of Lee's army when it surrendered at Appomattox court house. His mother was formerly Anna Jane Tolbert, a daughter of Jack Tolbert, whose plantation was near Meridian, Mississippi. In 1871 Mr. and Mrs. Boozman migrated west to Arkansas and established their home in Sebastian county, thence after a few years crossing the line of the Indian Territory into the Choctaw country. Mr. Boozman is now a prosperous farmer of Le Flore county. The children born to him and his wife were as follows: Jane, now the wife of T. C. Collins, of Shady Point, Oklahoma; James W., of this biography; Arthur, who died in Le Flore county at the age of twenty-two, the father of a family; Eliza, who married William Burton and is

also a resident of Shady Point; John P., who died in Oklahoma, leaving a family; Lue, the wife of J. E. Park, of Red Oak, Oklahoma; and Robert E., of Cameron.

James W. Boozman was seven years of age when the family moved from his Mississippi home to Sebastian county, Arkansas, where he received a crude education but a splendid practical training for progress in the southwestern country. When young he became a thorough farmer and clung to that vocation until he was twenty-six years of age, when he became a clerk in the store of C. J. Green and Company at Cameron. His career as an employee and merchant has therefore extended over a period of about twenty years, although he is still in the prime of early middle life. Following his services with C. J. Green and Company he entered the firm of the Battles-Green Company as a partner, and subsequently became a member of the firm of Boozman and Edwards, continuing in the latter connection until fire destroyed the store and stock of the firm in December, 1905. In July, 1906, the firm of Johnson and Boozman was formed, which conducts a general merchandising business at Cameron, Oklahoma. As stated, the store at Cameron is the chief mercantile house of the town and is under the general management of Mr. Boozman. Its trade covers a wide area of the country and the house is a positive factor in the handling of the chief crops produced in the Castle Mountain region. While Mr. Boozman takes no active interest in politics he is a staunch Democrat. He is also a Master Mason and belongs to the Eastern Star.

Married in Sebastian county, Arkansas, November 3, 1882, before he had celebrated his eighteenth birthday, Mr. Boozman commenced married life with virtually no assets except a team, a few farm implements and a few articles of furniture, but he and his girl wife bravely commenced housekeeping in a tiny house near Wicherville, now Huntington. His wife was formerly Lucy Stroud, a daughter of W. J. Stroud, and was born in Sebastian county in 1865, and died at Cameron December 12, 1896, the mother of the following children: Ordie, Bert (now his father's bookkeeper), Bertha, Claud, May and Barney. In 1897 Mr. Boozman married Mrs. Janie Norvell, a daughter of Pinkney Turham, a native of Tennessee, but an early settler of Sebastian, Arkansas, where Mrs. Boozman was born and reared. The children born to them are Burl, Curtis, Fay and Herman Boozman.

James E. Reynolds. At and in the vicinity of Castle mountain, near Cameron, Le Flore county, are seen many picturesque evidences of the substantial achievements and high standing of Captain James E. Reynolds—a brave, determined and able character to whom the Choctaw Nation was greatly indebted for its advancement in agriculture, commerce and the true American spirit. His unique and imposing castle of gray granite, double-turreted and mediæval in outward form, stands at the base of the mountain, while at its apex is a splendid orchard of seventy acres, which he created on one of his wife's valuable allotments. In 1867 he came to the Choctaw Nation and located on Poteau bottoms in what is now Le Flore county and in the same year located and established a residence on the state line. There he lived about eighteen years, and then built the house that he now occupies. The land has lately been sold to a development company which is promoting the new town of Arkoma. On the other hand the Captain still maintains the farming interests which he opened up in the famous Poteau bottoms, near Fort Smith, in the form of about twelve hundred acres of improved and productive land, representing the allotments of the Reynolds family and which have so materially contributed to their independent standing in the community. Captain Reynolds is further recognized as the founder of old McAlester and, more than any other man, identified with the establishment and the development of the mercantile and coal interests of this locality.

James E. Reynolds is a Mississippian, born in Carroll county on the 17th of July, 1837, and is a son of Rev. Bowen and Sarah (Meaux) Reynolds, his parents having been married in Virginia in 1817. Both sides of the family were early established in the south, the paternal ancestors being

of Irish origin and pioneers of North Carolina. Richard Meaux, Mrs. Reynolds' father, was a native of the Old Dominion, born in 1767, and in 1789 he married Frances Oliver, who was four years his junior. Captain Reynolds' parents spent their last days in Mississippi, his death occurring in July, 1845, and her decease July 25, 1850. Thus orphaned when he had just entered his fourteenth year, the month of July in its many recurrences has always brought to him some of the saddest memories of his long life. The circumstances of his early years also made it impossible for him to secure anything like complete educational advantages, and he has little knowledge of the average care-free periods of boyhood. First employed as a dry goods clerk, at the time of the outbreak of the Civil war he had reached the dignity of an independent merchant, located at Carrollton, Mississippi.

On the 1st of April, 1861, Captain Reynolds joined the Confederate army at Carrollton, as a member of Company K, under Captain Lidell, and he helped Company K organize at Corinth the Eleventh Mississippi Regiment, commanded by Colonel Moore. The regiment was dispatched to Lynchburg, Virginia, and afterward to Harper's Ferry, where it was incorporated into a brigade which was commanded by General Stonewall Jackson. After the battle of Manassas Captain Reynolds was stricken with typhoid fever, and after a hospital confinement of four months returned to Mississippi, in November, 1862, and re-enlisted in Company K, Thirtieth Mississippi Infantry, under Colonel G. F. Neil. The regiment became a part of the Army of the Tennessee, and during its first engagement at Perryville, Kentucky, the young Mississippian was wounded, but not disabled, and within the succeeding eighteen months saw active and wearing service in Kentucky, Tennessee and Georgia. At the battle of Lookout Mountain, November 24, 1863, he was severely wounded in the breast, and again sent to the hospital. Four months afterward he returned to his reorganized regiment with the rank of second lieutenant, as a reward for his bravery at that battle, but in May, 1864, he received another wound at New Hope Church, Georgia, from which he has never fully recovered. His first lieutenancy dated from that engagement and later he was commissioned to a captaincy, but the war ended before the arrival of his papers.

At the conclusion of the war in 1865 Captain Reynolds married Miss Felicity L. Turnbull, of Choctaw blood, born in Lexington, Mississippi, on the 17th of November, 1847, a daughter of Anthony and Hannah (Long) Turnbull. Her father was born in Mississippi in 1809, and died in that state September 21, 1849. Mrs. Reynolds' grandparents were Samuel and Felicity (Le Flore) Long, the Le Flores being among the most prominent Choctaws of the Nation. Mrs. Anthony Turnbull was born February 17, 1813; married in Holmes county, Mississippi, September 7, 1829, and after the death of Mr. Turnbull became the wife of James Jordan, herself dying August 13, 1877, in Scullyville county, Choctaw Nation. The children who were born to Captain and Mrs. Reynolds comprise the following: James T., who died at the family home in Cameron, November 22, 1908, unmarried; Ida, who married Dr. Murray and resides at Poteau, Oklahoma; Rosa O., now Mrs. F. H. Carr, and making her home with her parents; Hugh A., of Braden, that state; Earl V., who lives in Fort Smith, Arkansas; and Misses A. Grace and Felicity L. Reynolds, also at home with their parents. The Captain thoroughly educated his children, some of them being college graduates, and his sons are engaged in business and have other substantial interests. The family are identified with the Presbyterian church.

After his marriage Captain Reynolds lived for a year in Mississippi, but the condition of affairs in the reconstruction period immediately following the Civil war was so unsatisfactory that he removed with his wife to Scullyville county, Choctaw Nation, and settled on a farm near Cameron. As the result of the war his wife's Mississippi plantation had been ravaged and her slaves had been scattered and freed, so that but little of value was taken from Mississippi into the Indian Territory, and with resolute spirit the Captain began the

work of acquiring another fortune. The allotments of land which came into the family through the Choctaw blood of Mrs. Reynolds were energetically and wisely improved, while Mr. Reynolds became also one of the most progressive and influential business men of that part of Oklahoma. He was the first capitalist to begin the development of the now extensive coal mines at South McAlester and vicinity, and built the first business house in that place, where in partnership with R. L. Owen he established the large mercantile house conducted by the Indian Trading Company. Later he sold his interest in that enterprise, but for some years afterward was actively and extensively connected with the coal mining and agricultural interests. At the height of his activities in 1890 he erected his magnificent residence at Castle mountain, which at the time was one of the finest in the state, and is now the most attractive.

Captain Reynolds is one of the oldest Masons in the state, having joined the order while a resident of Mississippi in 1867. In politics he is still a Democrat, but has never voted, for since his service in the Civil war he has never taken his oath of allegiance to the United States.

GERHARD H. WITTE. In the year of 1887 there came among the people of the Indian Territory adjacent to Poteau a young German as foreman of a carpenter's crew in the construction of the Frisco Railroad. He had acquired the trade of cabinet-making in his native land, had afterward learned something of bridge architecture and when he plied himself to the task of finding work in America he obtained the position of bridge foreman and was sent among the people of what is now eastern Oklahoma. He remained with the railroad till the spring of the next year, when he was induced to prospect for coal. As the indications about Poteau were promising, he began his work there and his efforts led to the discovery of coal in great quantities in what is now Le Flore county and to the establishment of industries and the ultimate building of towns. They resulted also in the establishment of a leader among the business men of Le Flore county in the person of Gerhard H. Witte.

Mr. Witte was born in the province of Westphalia, Germany, in the month of September, 1866. William Witte, his father, was a coal man and rope manufacturer who was born at the ancestral home, married a Miss Brickelman, reared his family, and died there in 1887, at the age of sixty years. He was the government bank inspector of the town of Beckner and was an alderman of that place.

Gerhard H. Witte is the youngest son in a family of eight children, the only member besides himself who came to the United States being his brother, who resides in New York. From his youth Gerhard possessed an independence and self-assertiveness that often brought him into conflict with the time-honored regulations of the paternal household, and these derelictions and apparent lack of filial respect won for him the sobriquet of "the black sheep" of the flock. The compulsory school law of Germany forced him to acquire an elementary education, and with the close of his school career he began learning the cabinet-maker's trade. When of age he decided to emigrate to the United States, and finally landing in New York secured work that led eventually to his settlement in Poteau while at St. Louis on his way west.

Having discovered coal, as already narrated, he obtained a lease of a large tract of land from the Indians and with more confidence than capital he formed a company for the ultimate operation of mines on Cavanal mountain. His combination was named the Cavanal Coal and Mining Company and developed the property situated four miles from Poteau, subsequently connecting it with the Frisco line by means of its own road and rolling stock. In 1904 the company sold its property to the Poteau Coal and Mercantile Company. Having freed himself from his first great responsibility and won the confidence of capital as a successful financier, Mr. Witte set about the organization of a second mining enterprise called the Hodman Coal and Coke Company, which acquired property in Scott county, Arkansas, and subsequently

reorganized as the Black Diamond Coal and Coke Company. Of this corporation he was superintendent until it was leased; but the lease was of a comparatively short duration, for he bought the mine himself and operated it as the Witte Coal Company, selling it in June, 1907, to the Hiawatha Smokeless Coal Company.

As a citizen of Poteau, Mr. Witte's relations have been signally broad and intimate. He was the first man to be elected to a mayoralty in the Indian Territory and was the first executive of Poteau. He was elected in 1898 and held the office four terms—twice as the representative of the independent ticket and twice as a Republican. During his incumbency were made the first public improvements of the town and the chief event of his administration was the voting of bonds for the construction of municipal water works. He was also a prime mover in the erection of permanent school buildings, and was a liberal contributor of his private means toward the general welfare of the city.

In Republican politics Mr. Witte is, in fact, well known throughout the state of Oklahoma. He has attended practically all the important conventions since national politics were extended to the territories, was five years a member of the Republican Executive Committee of the Indian Territory and is at present the state committeeman for Le Flore county. It should also be stated that he served as the last United States marshal of the central district of the Indian Territory, having filled the unexpired term of Marshal Pritchard and retired from office with the event of statehood. In a business way Mr. Witte was one of the organizers of the First National Bank of Poteau, and is its vice president. He is president of the Poteau Lumber and Manufacturing Company and organized, with R. C. Alexander and T. B. Wall, the Poteau Ice and Light Company, of which he is vice president. He is the owner of much valuable real estate in the county seat and has improved one of the good homes therein.

On September 3, 1891, Mr. Witte married at Fort Smith, Arkansas, Miss Nellie Cooney, of Springfield, Missouri, daughter of John Cooney, a contractor on the Frisco road and an Irishman by birth. The children of this union are Leo A. and Frank Witte. Mr. Witte is a Catholic and practically built the Catholic church in Poteau. He is a member of the Knights of Columbus.

Joseph S. Terry, the first chairman of the board of county commissioners and a well known contractor and lumber dealer of Poteau, whose connection with the building of the county seat has been prominent and substantial, was born in Lamar county, Alabama, November 12, 1868. His father was Reuben F. Terry, born in the same state April 3, 1833, and throughout life was a tanner and a farmer. His place of business was situated in Sulligent, near his early home, and whither the grandfather, John Terry, emigrated from his English home in the first part of the nineteenth century. The grandfather mentioned first located in Allegheny county, Pennsylvania, but in 1818 established himself in Alabama, where he was a mill man as well as a farmer and where he died at the age of eighty years. He was in sympathy with the institution of slavery, for he owned black men and passed them with his estate down to his children. Reuben F. Terry married Marjory Hawkins, a daughter of John Hawkins, a farmer of Ripley, Mississippi, and she passed away in 1887, the mother of the following: Jabous J., who died in Poteau, Oklahoma; George W., one of the well known citizens of that place; Joseph S., of this notice; Henry S., who passed away in Poteau; and Knox, also a resident of Le Flore's county seat.

Circumstances willed that Joseph S. Terry should enjoy only about nine months' schooling, and at the age of sixteen years he entered the shops of an iron bridge builder as a laborer at one dollar and seventy-five cents a day. J. H. Rousseau and A. V. Gude, of Atlanta, Georgia, were later his employers, and he remained with them for nearly eight years, and when he left their employ he was principal assistant foreman of bridge construction and had built bridges in all the southern states but Louisiana. He then went to Knoxville, where he became identified with the Union Bridge

Company of Buffalo, New York, and covered the northwest and middle west as their assistant foreman of bridge building. In 1894 he abandoned bridge work and came out to Indian Territory to visit his brothers. He became interested in the town of Poteau and the country, and devoted a few years to farming. Leaving the farm, Mr. Terry then engaged in carpenter work about a coal mine, rising to the position of assistant superintendent of the mine. This place he resigned to become superintendent of buildings and bridges for the Arkansas and Western Railway, then under construction. He resigned this position and began contracting and building, and his handiwork is seen in nearly all the prominent business houses in Poteau and many of its residences. He built the high school, the water works reservoir and pumping station at that place, and the school buildings at Heavener, Howe, Wister and Shady Point, Oklahoma, as well as at Mena, Arkansas.

Recently Mr. Terry engaged in the lumber business at Poteau, where he is president of the McKenna-Stevens Lumber Company and of the Poteau Grain and Produce Company, and also manager of the McKenna-Terry Coal Company. His interest in Democratic politics led him to enter the race for membership on the first board of commissioners of Le Flore county, and upon its organization he was chosen its chairman. The board has accepted plans for a new court house to cost (with furnishings) $150,000, and a modern fireproof jail to cost $13,000, and called an election to vote for bonds for roads and bridges to the extent of $200,000, so that there is a certainty that responsibilities of weight are in store for the chairman of the board, with equal certainty that they will be discharged gracefully, promptly and ably.

On November 3, 1895, Mr. Terry married, at Poteau, Miss Maggie B. Griffin, a daughter of Alonzo L. Griffin, of Baldwin, Mississippi, where Mrs. Terry was born in 1876. Their children are Joe F., Marjorie and Pauline Terry. Mr. Terry is a charter member of the Knights of Pythias, the Masonic order and Woodmen of the World.

CHARLES G. ADKINS. Formerly a leading business man of Cameron, Charles G. Adkins, register of deeds of Le Flore county, was born in Johnson county, Arkansas, September 4, 1871. His father, William Adkins, who is now a farmer near Cameron, Oklahoma, is also a native of that county and obtained his early training and education there. He served in the Confederate army under General Cabell, his regiment being first attached to the Trans-Mississippi department and later to that east of the Mississippi river. He participated, among others, in the battle of Wilson's Creek and served throughout the war. Resuming civil life, William Adkins returned to the farm and subsequently engaged in merchandising at Clarksville, Arkansas, residing there until he came to the Choctaw country, and after spending some years at Cameron in mercantile pursuits engaged in farming at his present location near the city. The paternal grandparents were Joseph and Martha (May) Adkins, the former being a Tennessee farmer who established the family homestead in Johnson county, Arkansas. William Adkins, the father, was married in that county, to Miss Mattie A. Paine, and the issue of the union is Charles G., of this review; Frank, of Van Buren; William, also of that place; and Mrs. Annie Poole, of Poteau, Oklahoma.

While the parental home was at Clarksville, Arkansas, Charles G. Adkins reached mature years and received his education in its public schools. When a youth of sixteen he became a merchant's clerk in his native town, and made this his business until he became a student in the famous normal school at Valparaiso, Indiana. Added to his work in the normal was a business course which he pursued in the Fort Smith Business College, just before his advent to the Indian country in 1892. He became a bookkeeper at Cameron in 1892, and was identified with that town as employe or proprietor until he was chosen register of deeds. He was in the employ of W. H. McMurray and J. W. Carrel at Cameron for nine years, and then successfully engaged in business for himself. He

also became interested in coal, and developed quite a valuable mining property, after organizing a company known as the Cameron Coal and Mercantile Company, which business, as well as his store, was sold out in 1907. Being thus free from the cares of private business and having a wide acquaintance over the county, Mr. Adkins became a candidate for register of deeds and received the nomination in the Democratic primary without opposition—an unusual honor and indicating a high degree of personal popularity and public confidence. He was elected over his Republican opponent by a majority of five hundred and twenty votes, and assumed office in Poteau with the advent of statehood, succeeding to the office of the recorder of district fourteen of the Indian Territory under the Federal regime.

On December 25, 1895, Mr. Adkins was married at Van Buren, Arkansas, to Miss Maud M. Eichenberger, a daughter of Jackson and Mary E. (Carey) Eichenberger, who were the parents of five children. Mr. and Mrs. Adkins are the parents of the following children: Charles G., Jr., Carey P., William J., Amasa M. and Henry F. Mr. Adkins is a member of the Knights of Pythias, and both he and his wife are Methodists.

Dr. Felix W. Bird, an able and prosperous physician and druggist of Poteau, LeFlore county, is a native of Grant county, Arkansas, born November 23, 1872, son of William R. L. and Kate (Mitchell) Bird. His mother was a daughter of David Mitchell, an Alabama farmer and a native of Crenshaw county. Both parents, in fact, were born in that county, migrating from their native state in 1860. The father died in Grant county, Arkansas, in 1885, at the early age of thirty-eight, and the mother passed away in 1878.

At the time of his mother's death Felix W. Bird was less than six years of age, and as he was thus bereft of both parents he was adopted by his grandfather, James Kelley, who provided him with a thorough common education and trained him in the practical duties of the farm. At seventeen years of age the youth drifted into the Choctaw Nation, and even at that age was well equipped to not only care for himself but to make substantial progress toward useful citizenship. His first work was as a cotton picker, for which he received fifty cents a hundred and board, and in the succeeding two seasons he was engaged in clearing land and in agricultural duties for the neighboring farmers. His next venture was as clerk in the drug store of Dr. M. F. Gray, at Cameron, with whom he remained until 1896, when he associated himself with George B. Noble and purchased a drug business in that town. The firm thus formed, known as the Noble-Bird Drug Company, moved its stock to Poteau in 1899 and has since been established there as one of its leading business houses. His experience as a druggist naturally interested him in medicine, and he therefore decided to enter that field professionally. For that purpose he attended Barnes Medical College, St. Louis, in 1900 and 1901, and after graduating from that institution located at McCurtain for the practice of medicine. He then returned to Poteau, where his professional business interests have since been maintained. The Noble-Bird Drug Company is now one of the oldest in Poteau, and its business was actively conducted by its two members until Mr. Noble was elected first sheriff of Le Flore county, when the management of the business fell to Dr. Bird.

As a Democrat and a public spirited citizen Dr. Bird himself has been active in municipal affairs and has already served for one term as city clerk. He is also an active member of the Commercial Club and a leader in fraternal work, being past high priest of the local Masonic chapter and past chancellor of the Knights of Pythias. On December 7, 1903, Dr. Bird was married at Poteau to Miss Kate Gatewood, daughter of W. P. Gatewood, a merchant of Vinita, Oklahoma, but a former resident of Mississippi.

Obe T. Allen is widely known among the citizens of Talihina as a cattle grower and dealer, and has passed the years of his business life in what is now Le Flore county. He is a native of Fort Worth, Texas,

born July 23, 1870, a son of Alexander Allen. Mr. Allen's education was obtained in the rural schools of his home neighborhood, but his real training for the business of life was received on the broad plains of Texas. While still a young boy he became an expert horseman and handler of cattle, and at the age of seventeen he was engaged in business for himself. In 1890, then only twenty years of age, he located in Le Flore county as a stockman, and since that time has made steady progress in that business. While not counted as among the most extensive stock men of the locality, he handles from twelve to fifteen hundred cattle annually, shipping to the various markets of the north and east. He is an active member of the Texas Live Stock Association.

Mr. Allen has been twice married, first to Miss Alice Lovelace, who died on October 20, 1893. In 1896 he married Mrs. Dora Veulemans, a daughter of H. S. Allen and the children of this second union are: Thelma, Naomi, Gladys, Fay and Jay Allen. Mr. Allen now occupies a comfortable and modern home in Talihina, is an active member of the Woodmen of the World, and in politics is a Democrat.

C. Dixon Hill. For more than a quarter of a century C. Dixon Hill has been a developing force in Le Flore county, and for many years past has been a permanent resident of Poteau, where he is still engaged in the promotion of his large business and financial interests; looking after the education of his younger children and, as a tenant landlord, superintending his property near Sugar Loaf Mountain. The latter locality was the scene of his first coming to the Indian country, when, as a sturdy youth of eighteen years, he ventured into the land of uncertain but bright promise as an emigrant from his native state of Mississippi.

Mr. Hill was born in Lee county, Mississippi, September 21, 1863, his father being Augustus Hill, a farmer and a Baptist minister of Tennessee birth. The latter was born in 1821 and married in the state of his nativity. He acquired only a common school education and became an adherent of the Primitive Baptist faith, his father (Allen G. Hill) being a clergyman of that denomination. The grandfather of C. Dixon finally settled in Arkansas and died at Little Rock about 1874, at eighty years of age. His father, in turn, was the founder of the family in Tennessee and was of Irish birth. Among the children of Allen G. Hill were Horace, who died in Ardmore, Oklahoma; C. S., who passed away near Little Rock, Arkansas; Augustus, who died in Lee county, Mississippi; Mrs. A. G. Nelson, who died in Mississippi; Mrs. Adalaide and Mrs. Adaline Williams, both of whom reside at Meridian, Mississippi.

Augustus Hill, the father, married Miss Naomi Beavers, a lady of Tennessee birth, who passed away in Lee county, Mississippi, the mother of the following: Martha, who first married a Mr. Ryan and whose second husband was John Cunningham, of Paris, Texas, where she also passed away; Elsie, who became the wife of William Bonds and died near Paris, Texas; Erastus, who was killed in the Confederate army; Lucy, wife of Jesse Wilson, of Boonville, Arkansas; Albert, of Fort Smith, that state; Erastus II, who died near McCloud, Oklahoma, and left a son; Fannie, wife of Jo Eaves, of Bertram, Texas; Adaline, who married James McCarty, of Sherman, Mississippi; Augustus, of Nettleton, that state; C. Dixon, of this sketch, and Ruth, who is Mrs. Thomas Gray, of Tom Green county, Texas.

The country schools were all that C. Dixon Hill had at his command while getting his education, and when at the age of eighteen he cast about for a more promising field for the exercise of his maturing abilities his mind turned to the Indian Territory, since in the shadow of Sugar Loaf Mountain he had acquaintances in the family of Enoches and it was with them that he first found a home in the Indian country. In this locality he commenced to work on shares, next rented a farm and in 1886 was in a financial position to take upon himself the responsibilities of a wife and family. His wife, before marriage, was Miss Izora James, daughter of Martin James, a Chickasaw Indian and a Missionary Baptist preacher. The latter married a Choctaw

woman, a Miss Merriman, whose father was a white man from Kentucky and whose mother was also a Choctaw. The children born to Mr. and Mrs. C. Dixon Hill have been: Horace C., Orval Q., Elba N., Louis A., Esther J. and C. Dixon, Jr.

By this marriage, under the Choctaw laws, Mr. Hill became an independent land owner; selected his allotments near Sugar Loaf Mountain and became a successful raiser of cotton, corn and grain. In 1889 he removed to Poteau and clerked for several years in the stores of Forbes and Donaghe and Captain McKenna, also associating with C. T. Wilburn for about a year —then sold to S. P. Humphrey and clerked for him a time in general merchandise. He then returned to farming occupations near Sugar Loaf Mountain, but with the growth of his Poteau interests and his desire to give his children the advantages of the superior schools at the county seat, he rented his lands and became a fixture in the city. Since then he has been identified with its most substantial enterprises. He was one of the organizers of the Le Flore County Bank and its first president, and is a stockholder in the Miller Hardware and Furniture Company. In politics he is a Democrat. The family residence is a pretty cottage which caps a picturesque hill overlooking Poteau. Both Mr. and Mrs. Hill, as well as the members of the family, are faithful and active Presbyterians.

QUINTUS HERNDON, of Garvin, one of the leading farmers and a pioneer of old Bokhoma county, now Red River county, Choctaw Nation, effected his settlement there about twenty years ago, when he opened up a farm near Garvin and began his career as a married man. He began in the timber, and there hewed out for himself a home and a good farm. With his own family allotments he is one of the largest landowners of the county.

Mr. Herndon was born in Sevier county, Arkansas, May 4, 1861, a son of Harrison Herndon, a mechanic and small farmer who a few years before the breaking out of the Civil war went there from Orange county, Virginia, where his father, Peter Herndon, also a farmer, lived, reared a family and died. Harrison Herndon was born February 20, 1821, and was reared on his father's farm and married in his native state. He served an apprenticeship at the carpenter's bench, following that trade through life, save during the period of his service in the Confederate army, and established himself at Little River county, Arkansas, upon first coming to the state, but later lived in Sevier county and died there February 10, 1906. He married Alice Mason, born also in Virginia, in 1826, and she is now a resident of Idabel, Oklahoma. Of her family of eleven children, Quintus is the fourth in order of birth.

Quintus Herndon received a limited education at the rural schools. His youth was spent on the farm, and when eighteen years of age he commenced to operate life's craft on his own account as a hired man on a farm. In this capacity he proved himself useful and he continued to labor for about five years. By practicing rigid economy he found himself with a bank account at the date of his marriage, April 17, 1887, when he became the head of a family and established a good home for himself. His marriage occurred at Old Wheelock, then in Towson county, where he was united to Miss Roas Pebworth, whose parents were members of the Choctaw tribe. The children of this union are May, Edna, Wilma, Henry, Mayo, Raphiel and Ruby.

In his citizenship in Oklahoma Mr. Herndon has ever maintained himself in a quiet, unassuming manner and without aspiration or ambition save for that business success which would enable him to properly educate and train his children. His many years' experience with territorial conditions led him to espouse the cause of single statehood, and when the time came he threw his influence toward the adoption of the new constitution. He makes no demonstration, but always acts with deliberation, hence is accounted a safe counselor. His splendid home is the result of a score and more years of hard toil at the hands of himself and faithful wife. Their children are receiving the best of English educations and are being taught good citizenship, the father

and mother both desiring that their offspring shall be an honor to them and to the state in which they are being educated.

HARVEY THOMAS WRIGHT, junior member of the mercantile firm of Goff, Gamble and Wright, of Garvin, was born in Polk county, Arkansas, October 15, 1870. He was reared and educated there, having the advantages of the good public school system of that locality. He began life as a school teacher in the country districts, and followed this vocation seven years, when he abandoned the profession and prepared himself for a commercial career by taking a course in Neal's Business College at Ft. Smith, Arkansas. He then accepted a position as a bookkeeper with the I. A. Dye Lumber Company at Jansen, Arkansas. Next he was employed by the William Scroggins Dry Goods Company at Mena in a like capacity, after which he engaged in merchandising for himself at Jansen, continuing there until his departure for Garvin, Oklahoma, in 1904, when he became a partner in the firm mentioned in the introduction of this sketch.

Politically Mr. Wright is affiliated with the Democratic party. In fraternal relations he is a Master Mason.

ROBERT J. GLENN, the owner of one of the richest oil producing fields of Oklahoma, was born and reared on a farm, and most of his subsequent life has been devoted to agricultural and stock raising pursuits, although for some time he was engaged in railroad occupations with the Frisco company, principally in the telegraphic department. He was born near St. James, in Phelps county, Missouri, January 1, 1868, and was educated in the schools of that city, a son of J. D. and Elizabeth (Branstetter) Glenn.

J. D. Glenn, now deceased, was one of the old-time citizens of Phelps county, Missouri, where he was born and lived his life until in March, 1893, when, with his family, including his son Robert, he came to Indian Territory, their temporary destination being Sapulpa, from whence they made an investigating trip in search of good farming land through western Indian Territory and into the northern part of Oklahoma. This was in 1892, the year of the opening of the Cherokee Strip, but they found nothing to suit them, and during the summer returned to the Creek Nation in the vicinity of Sapulpa, which they decided was as favorable a section of country as they could find for agricultural purposes. Mr. Glenn continued to reside in this vicinity until his death. His widow is still living, her home being at Mound, and their daughter, now Mrs. Ella Petty, has lived for several years at Brownwood, Texas.

During the gold excitement of 1852 J. D. Glenn went to California, and while there obtained a knowledge of mother earth which was of much benefit to him after coming to Oklahoma. He took a lease on the Berryhill land and while bursting up rock for pillars for his buildings he discovered oil, and later found oil on the frozen creek. From the knowledge he obtained in the gold fields of California he knew there was considerable oil in this section, so he induced his daughter-in-law and his son to give the lease to Chesley and Galbreath.

Robert J. Glenn, the son, located in this vicinity with the main idea of securing a piece of land that presented the most favorable prospects for farming and stock raising purposes. He selected a quarter-section in what is now Tulsa county, fifteen miles south of the town of that name, and this has since become famous as the allotment containing the original well drilled in the Glenn Pool. A lease on this quarter-section being obtained from its owner, Benjamin Franklin Berryhill, Mr. Glenn established his residence thereon August 1, 1893. One the 12th of August, 1894, he married Mr. Berryhill's daughter, Miss Ida Berryhill, who inherited this quarter-section from her father at his death in 1896. Since the discovery of oil here this land has become famous as the Ida Glenn Allotment. The first oil well drilled on this place, and which is still producing, was brought in by Robert Galbreath in November of 1905, and the great industrial development which has taken place in Glenn Pool since that time seems almost miracu-

lous, comprising what is said by oil men to be the richest oil field in the world.

Mrs. Glenn was born in Buchanan county, Missouri, and is a member of the well known Berryhill family of Creek Indian history, headed by John Dallas Berryhill, who came with the first Creek emigration from Alabama to the Indian Territory and later settled in Buchanan county, Missouri. Mrs. Glenn's father, Benjamin Franklin Berryhill, was born in that county, and moved with his family to the present home in the Creek Nation some time in the eighties, and Mrs. Glenn was reared there and was educated at Wealaka Mission. Mr. and Mrs. Glenn have four children—Mabel C., Grace, Elma and Ralph. The income in royalties from oil produced on the lands owned by Mr. and Mrs. Glenn and their children, all of the lands adjoining, has brought them great wealth, which they use, however, without ostentation and with good business judgment.

HENRY LINK, who has lived in Oklahoma City since 1892, and for many years was known among a wide circle of friends as a traveling salesman, is now engaged in conducting some large mining interests in the Colorado field. As president and general manager of the Little Bernice Mining and Milling Company, of Custer county, Colorado, and as one of the directors of the New Bull Domingo Mining and Milling Company, in the same county (the latter being a lead and silver proposition), he has been instrumental in developing some first-class properties and in placing them within the control of his Oklahoma City friends. Notwithstanding the location of the mines, the properties might be well considered an Oklahoma affair, since Mr. Link and his financial associates have promoted them.

Mr. Link was born in Louisville, Kentucky, in 1860, and after being educated in that city became identified at an early age with mercantile pursuits, being located for several years in St. Louis and Kansas City. For eleven years he traveled in the interests of the Cudahy Packing Company, also several years for the McCord-Collins Company, wholesale grocers. His territory was Missouri, Kansas, Oklahoma and other portions of the southwest, and the acquaintance formed with the substantial business men of this section was a very important factor in his success when he took up independent business. He gave up all other business connections in 1905, in order to devote his entire time to the promotion of his mining interests in Colorado. He had made exhaustive study of mining, not only from the geological and scientific standpoint, but from the standpoint of the practical business man conducting mining on a legitimate basis the same as any other business. He has applied strict business principles and management to every feature of his business, from the work of the prospector to the organization of the company, establishing the plants and installing machinery, and as a result his enterprises have proved financially successful and have brought a large number of investors to pin their faith in his sound judgment and methods. He has a high standing in the business circles of Oklahoma City.

At Kansas City, Missouri, Mr. Link married Miss Delphine H. Howard, a native of Minnesota, but who was reared in Wisconsin. In their pleasant home in Oklahoma City they have a family of four children: Hortense, Della, Louise, Harry H.

CHARLES NATHANIEL HASKELL was inaugurated the first governor of the state of Oklahoma, at high noon, November 16, 1907. He was then forty-seven years old, a lawyer by profession, but during most of his active career had been identified with more constructive enterprises. Until his entrance into the field of politics, and his rapid rise to prominence during the statehood movement, he was probably the most active promoter of large industrial and business affairs in the city of Muskogee. One of the current bits of news concerning the governor is to the effect that when he arrived in Muskogee in 1901 he found the capital of the Creek Nation a dry, sleepy village of four thousand five hundred people, but that immediately on his arrival, the town took new life, business blocks were constructed (the governor built the first five-story business block in the Territory),

street car lines and railroads were promoted, and through his influence Muskogee grew to be a center of business and industry with twenty thousand inhabitants.

Governor Haskell impresses the stranger who is unacquainted with his identity as governor, first of all, by his evident business ability, and this distinction of practical and astute executive capacity is more prominent than some of the less valuable characteristics that are often associated with statesmanship. In dealing with Mr. Haskell, either in official or business affairs, one would expect straightforward, incisive handling of the subject under consideration. Circumlocution and specious argument would be out of place in the governor's office.

Governor Haskell had been identified with Indian Territory nearly seven years before he became governor. He came to Muskogee in March, 1901, as a railroad contractor, and has the honor of having organized and built all the railroads running into that city with the exception of the M., K. & T., these being the O. & C. C., now part of the Frisco, the Muskogee Union and the Midland Valley, formerly the Muskogee Southern. It is said that he built and owned fourteen brick buildings in the city.

By birth and early training he was identified with the old state of Ohio. Born at West Leipsic, Putman county, in 1860, the son of a cooper who died when the boy was three years old, he had to begin life at an early age and worked hard for all he has attained. He became, when ten years old, hired boy to a farmer named Miller in Putman county, and grew towards manhood and developed strength and capacity during the eight years that he continued that relationship. Too much work interfered with regular attendance at school, and in studying books he experienced difficulties similar to many described in the careers of other eminent Americans. At eighteen he had fitted himself for the responsibility of teaching district school, and for three years he taught in his native county. By 1880, having studied law in connection with other duties, he had become one of the successful lawyers of the county seat, Ottawa, and was also an influential Democrat in that section of Ohio. To that profession, in 1888, he added the practical phases of general contractor work, and for about sixteen years his business career brought him into close touch with this important department of American industrialism.

The political career of Mr. Haskell included as its first important event his active membership in the Sequoyah convention, in which he wrote a large part of the Sequoyah constitution. With this he became a permanent power in the politics of Indian Territory. For the constitutional convention called in response to the enabling act of June 16, 1906, he was elected a delegate from the seventy-sixth district, including Muskogee, by the largest majority of any member in the entire new state. Mr. Haskell owned the *New State Tribune*, and through its editorial columns advocated certain specific propositions for the new constitution, most of which he eventually saw, in substance if not in form, incorporated in the basic law. Among these provisions were some that affected the labor problems, and which had been advocated by representatives of organized labor. It is said that Governor Haskell, during his business experience covering many years of handling and dealing with the various classes of labor, was particularly successful in avoiding difficulties, and never had a strike among his men. In 1905, when all the contractors of Indian Territory were having trouble with the labor unions, he immediately signed the scale and his men lost not an hour.

As constitutional delegate, Mr. Haskell was present at every roll-call and voted on every proposition during the eighty-seven days of the session. At Tulsa on March 26, 1907, during the recess before the final adoption of the constitution by the convention, was held the big Democratic banquet and love feast, attended by five or six hundred of the leading Democrats of the new state, at which the first campaign was formally inaugurated. It was during the course of that evening that Charles N. Haskell was presented by his friends for the honors of the gubernatorial candidacy.

Thomas Doyle, of Perry, and Lee Cruce, of Ardmore, were already in the field for the governorship, and with the primaries set for June 8, Haskell had only brief time to present his cause to the people. During the campaign, Mr. Haskell make eighty-eight speeches in forty-five days, and reached nearly every county, while the lieutenants of the respective candidates were vigorously working the school districts and securing support in every community. The intensity of the campaign will long be remembered by those who passed through it. Haskell's victory in the primaries was gained by over four thousand majority, and he immediately confronted a new opponent in the opposite party, the Republican territorial governor, Frank Frantz, who was nominated at Tulsa. A former Rough Rider, a friend of the president, and with the federal prestige and support backing him, he was the strongest candidate the party could have presented. There were several interesting features of the campaign between the two candidates. Mr. Haskell challenged his opponent to joint public discussions throughout the state, and every problem concerned with the administration of the new state came up and was debated during the campaign. It is claimed that the large corporate interests of the country joined in the opposition to the Democratic candidate, and that material support was furnished Haskell's opponent by the railroads and other trust interests. It is of interest to recall that both Mr. Bryan and Mr. Taft spoke during the campaign, and the latter's disapproval of the constitution and his advice that the people vote against it undoubtedly reacted in favor of Democratic success. After Mr. Haskell's election and the approval of the constitution on September 17, a Republican approached the governor-elect and is reported to have said, "You have so written the constitution and carried on this fight in a way that the Republicans can't get anything in the state for fifty years." Mr. Haskell's eyes had a twinkle in them when he rejoined, "Well, that's soon enough, isn't it?"

It is too early to summarize the work of the first executive of the state, but it seems just to state that above the confusion and small talk of party and factional politics, an observer can recognize an increasing sentiment and belief that the governor is a strong and effective leader, an organizer of variant factions when possible, and a fighter when necessary, and that besides being successful in the game of politics, he has also shown the qualities of fearlessness and initiative that mark statesmanship and devotion to the public welfare. It will be interesting to know how closely future historians will identify his name with the constructive legislation and administration of the new state.

Mr. Haskell was married October, 1881, to Miss Lucye Pomeroy, of Ottawa, Ohio. The three older children are by this marriage—Norman, a Muskogee lawyer; Murray, a bank cashier; and Lucie. Their mother died in March, 1888, and for his present wife, Mr. Haskell married Lillie Gallup, also of Ottawa, Ohio. Their three children, Frances, Joe and Jane, are charming young folks in the younger social set of the capital.

J. R. Bailey.—The rich agricultural district of Oklahoma furnishes excellent opportunity to the grain raiser and to him who places the products of the field upon the market. J. R. Bailey is now well known as a grain merchant of Enid, who for eight years has resided in the city. He was born in Springfield, Illinois, October 6, 1868, a son of J. I. and Minnie (Van Pelt) Bailey. The father was a native of Ohio and in early life accompanied his parents on their removal to Illinois. In the late sixties he removed to Iowa and is now residing at West Branch, that state. He qualified in early manhood for the practice of medicine and surgery and has attained more than local prominence as a physician, while a liberal patronage is accorded him in professional lines.

J. R. Bailey was educated in Iowa and Kansas, removing to the latter state in his boyhood days to live with his grandparents. Early in his business career he was in the employ of the Chicago & Rock Island Railroad Company for eleven years as agent and operator in Kansas, his capabil-

ity being indicated by the fact of his long retention in that service, for it is well known that the railroads demand unfaltering fidelity and ability on the part of their representatives. In 1899 he came to Enid to accept the position of manager of the J. Rosenbaum Grain Company of Chicago for the state of Oklahoma, including both Oklahoma and Indian Territory. This is a very extensive business, in which connection Mr. Bailey controls the largest exportations of grain in the state. He is also vice president of the Choctaw Mill & Elevator Company. On coming to this place he entered upon a position of executive control, and has subsequently bent his energies to organization, to constructive efforts and to administrative direction. Possessing broad, enlightened and liberal minded views, faith in himself and in the vast potentialities for development inherent in his country's wide domain and specific needs along the distinct lines chosen for his life work, his has been an active career in which he has accomplished important and far-reaching results contributing in no small degree to the expansion and material growth of this section of the state and from which he is also deriving substantial benefits.

In 1889 Mr. Bailey was married to Miss Minnie Keith, a native of Hiawatha, Kansas, and they have one daughter, Mildred. Mr. Bailey belongs to the Independent Order of Odd Fellows, the Benevolent and Protective Order of Elks and other societies, and his fellow citizens recognize in him an enterprising, progressive man, who possesses a determined spirit that enables him to overcome all difficulties in his path, and, while promoting his individual interests, to also advance the general welfare.

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